

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

PLAINTIFF,

VS.

MYRA HOLMES,

DEFENDANT.

CASE NO. CR-09-0930-EJD

SAN JOSE, CALIFORNIA

MARCH 13, 2013

VOLUME 8

PAGES 1308 - 1526

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE EDWARD J. DAVILA  
UNITED STATES DISTRICT JUDGE

A-P-P-E-A-R-A-N-C-E-S

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CERTIFICATE NUMBER 8074

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY,  
TRANSCRIPT PRODUCED WITH COMPUTER.

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A P P E A R A N C E S: (CONT'D)

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**MYRA HOLMES**

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1 SAN JOSE, CALIFORNIA

MARCH 13, 2013

2 P R O C E E D I N G S

3 (JURY OUT AT 9:21 A.M.)

4 THE COURT: WE'RE ON THE RECORD IN UNITED STATES  
5 VERSUS HOLMES. COUNSEL AND MS. HOLMES IS PRESENT. THE JURY IS  
6 NOT PRESENT.

7 WE'LL BRING THEM OUT MOMENTARILY. ANYTHING THAT COUNSEL  
8 WOULD LIKE TO ADDRESS BEFORE WE BRING OUR JURY OUT?

9 MR. FAZIOLI: YES, YOUR HONOR. THERE WERE A COUPLE  
10 OF ISSUES THAT WE WANTED TO RAISE.

11 ONE IS THAT WE HAVE FILED OUR OPPOSITION TO THE DEFENSE'S  
12 RENEWED MOTION TO ADMIT THE HEARSAY DECLARATION OF  
13 LEONARD PAIGE. WE ARE HAPPY TO DISCUSS THAT AT THIS TIME OR AT  
14 A TIME THAT IS CONVENIENT TO THE COURT.

15 WE DO THINK THAT IT'S IMPORTANT WHEN THE DEFENSE IS  
16 PRESENTING ITS CASE THAT IT NOT BE ALLOWED TO GET INTO THE  
17 HEARSAY STATEMENTS OF LEONARD PAIGE BOTH IN TERMS OF THAT  
18 DOCUMENT BUT ALSO IN TERMS OF SOME OF THE OTHER WITNESSES THAT  
19 HAVE BEEN PROFFERED BY THE DEFENSE, NUMBER ONE.

20 NUMBER TWO, THE SECOND ISSUE IS THAT THERE HAS BEEN  
21 REPRESENTED THAT THERE WILL BE A NUMBER OF CHARACTER WITNESSES  
22 THAT WOULD COME, OR OTHER WITNESSES OTHER THAN THE DEFENDANT  
23 WHO ARE GOING TO TESTIFY.

24 WE HAVE CONCERNS UNDER 105 ABOUT WHAT THE PROPER SCOPE OF  
25 THEIR TESTIMONY WOULD BE AND BASED ON SOME OF THE REPORTS THAT

1 WE WERE PROVIDED ABOUT THOSE WITNESSES, IT DOES SEEM LIKE SOME  
2 OF THE AREAS OR THEIR ANTICIPATED AREAS OF TESTIMONY ARE  
3 OUTSIDE OF THE SCOPE OF SOME OF THE COURT'S IN LIMINE ORDERS  
4 ARE NOT REALLY APPROPRIATE AREAS FOR CHARACTER TESTIMONY, AND  
5 WE WOULD WANT TO FLUSH THAT OUT BEFORE THEY CAME IN AND TOOK  
6 THE STAND.

7 THIRD, WE JUST RECEIVED FOR THE FIRST TIME A LIST OF SOME  
8 DEFENSE EXHIBITS. I'M NOT ENTIRELY SURE WHAT THE FOUNDATIONAL  
9 BASIS IS FOR SOME OF THESE BUT LOOKING AT THEM RIGHT NOW, SOME  
10 OF THEM WOULD SEEM OBJECTIONABLE, AND WE DON'T KNOW IF IT WOULD  
11 BE EASIER TO SORT OF WALK THROUGH THEM NOW TO TRY TO REGISTER  
12 OUR OBJECTIONS OR GET A SENSE OF WHETHER THIS IS SOMETHING THAT  
13 SHOULD BE ALLOWED OR NOT AS OPPOSED TO HAVE CONSTANT SIDE-BARS  
14 DURING TESTIMONY IN PART BECAUSE WE DIDN'T RECEIVE THIS UNTIL  
15 THIS MORNING.

16 AND, LASTLY, THERE WAS THIS INTERESTING MOTION THAT WAS  
17 FILED REGARDING THE STATEMENT I MADE IN THE COURSE OF  
18 ADVOCATING WHETHER THE EXPERT IS GOING TO SOMEHOW GOING TO BE  
19 EVIDENCE. WE WOULD OBJECT TO THAT, AND WE THINK THAT'S  
20 SOMETHING THAT SHOULD BE FLUSHED OUT, FRANKLY, AS IT WOULD  
21 INFORM OTHER ASPECTS OF THE CASE. ALTHOUGH WE THINK IT'S  
22 MERITLESS FOR A NUMBER OF DIFFERENT REASONS.

23 THE COURT: OKAY. YOU JUST RECEIVED EXHIBITS TODAY.  
24 DID WE RECEIVE EXHIBITS? DID WE GET A BINDER?

25 THE CLERK: YES.

1 THE COURT: WE RECEIVED THAT THIS MORNING AS WELL?

2 THE CLERK: YES.

3 MR. FAZIOLI: FRANKLY, IT WOULD BE HELPFUL TO HAVE A  
4 LITTLE TIME TO REVIEW THESE BEFORE THE TESTIMONY BEGINS, BUT  
5 WE'LL DO IT NOW.

6 THE COURT: DO YOU INTEND TO INTRODUCE THESE  
7 EXHIBITS OR USE THESE IN YOUR CASE?

8 MS. GARRIDO: YES.

9 THE COURT: HOW MUCH TIME DO YOU NEED?

10 MR. FAZIOLI: I THINK POSSIBLY 20 MINUTES OR HALF AN  
11 HOUR MIGHT BE HELPFUL.

12 THE COURT: WELL, I THINK IT'S APPROPRIATE TO ALLOW  
13 EITHER SIDE TO REVIEW DOCUMENTS AND PARTICULARLY IN THIS CASE  
14 BEFORE ANY TESTIMONY IS GIVEN REGARDING THIS.

15 MR. FAZIOLI: AND IF I MAY SUGGEST SOMETHING IN  
16 LIGHT OF THE NATURE, WE HAVE BEEN REQUESTED RECIPROCAL  
17 DISCOVERY NUMEROUS TIMES OVER THE PAST SEVERAL YEARS, AND THESE  
18 ARE MATERIALS THAT WE'RE JUST GETTING THIS MORNING.

19 I THINK IT MIGHT BE HELPFUL BEFORE WE REVIEW THESE  
20 MATERIALS TO POSSIBLY GET A BRIEF OFFER OF PROOF FROM THE  
21 DEFENSE ABOUT WHAT THESE EXHIBITS ARE BEING INTENDED FOR, AND  
22 THEN WE CAN CONSIDER THAT AND COME BACK AND RAISE A QUESTION OF  
23 WHETHER WE HAVE ANY SORT OF OBJECTIONS.

24 OTHERWISE WE'RE SIMPLY SPECULATING ABOUT WHAT THESE  
25 DOCUMENTS ARE INTENDED FOR.

1 HAD THESE BEEN PROVIDED AHEAD OF TIME, WE WOULD HAVE HAD  
2 AN OPPORTUNITY TO LOOK AT IT AND POSSIBLY OBJECT, BUT WE'RE  
3 JUST GETTING THEM RIGHT NOW.

4 THE COURT: COUNSEL?

5 MS. LIE: YOUR HONOR, EXHIBITS A THROUGH J ARE ALL  
6 TAKEN FROM DISCOVERY THAT HAS BEEN PROVIDED TO US BY THE  
7 GOVERNMENT.

8 A NUMBER OF THESE WERE IDENTIFIED DURING THE EXAMINATION  
9 OF VARIOUS GOVERNMENT WITNESSES, AND WE WOULD BE MOVING TO  
10 ADMIT THEM AT THIS TIME, INCLUDING ON AN UNRELATED POINT  
11 EXHIBIT F, WHICH PREVIOUSLY HAD BEEN OBJECTED TO BY THE  
12 GOVERNMENT. I UNDERSTAND THAT THE GOVERNMENT IS WITHDRAWING  
13 ITS OBJECTION AT THIS TIME.

14 AS FAR AS K, N, Q, R, S, THESE ARE ESSENTIALLY  
15 PHOTOGRAPHIC MATERIALS THAT HAVE BEEN PROVIDED BY MS. HOLMES'S  
16 FAMILY. THEY DON'T CONTAIN MUCH IN THE WAY OF ACTUAL  
17 INFORMATION, IF ANYTHING. I THINK THEY WILL BECOME RELEVANT  
18 DURING THE TESTIMONY OF DEFENSE WITNESSES FOR A VARIETY OF  
19 REASONS TO BOLSTER FACTUAL TESTIMONY THAT THEY PROVIDE AND THAT  
20 SORT OF THING, BUT I DON'T THINK THAT THERE'S GOING TO BE  
21 ANYTHING PARTICULARLY CONTROVERSIAL ABOUT THE CONTENT OF THEM,  
22 WHETHER OR NOT THE GOVERNMENT CONSENTS TO THEIR ADMISSIBILITY.

23 L LIKEWISE WAS A DOCUMENT FROM THE GOVERNMENT'S EXHIBITS  
24 16, WHICH HAS ALREADY BEEN ADMITTED.

25 P LIKEWISE FROM -- O AND P BOTH FROM GOVERNMENT'S



1 EXHIBIT 58, WHICH HAS PREVIOUSLY BEEN ADMITTED.

2 AND THEN M IS A DOCUMENT THAT WE RECEIVED LAST WEEK FROM  
3 THE CITY AND COUNTY OF SAN FRANCISCO. IT'S SIMPLY BUSINESS  
4 REGISTRATION DATA REFLECTING THE REGISTRATION OF MS. HOLMES'S  
5 BUSINESS.

6 WE E-MAILED THAT A FEW DAYS AGO TO GOVERNMENT COUNSEL  
7 ALONG WITH THE DECLARATION OF CUSTODIAN OF RECORDS.

8 YOUR HONOR, I WOULD ALSO INDICATE THAT MS. SCHNEIDER HAD  
9 SENT OVER DIGITAL COPIES OF ALL OF THESE, INCLUDING THE ONES  
10 THAT HAD BEEN PREVIOUSLY ADMITTED AS GOVERNMENT'S EXHIBIT OR  
11 PREVIOUSLY BEEN REFERENCED DURING EXAMINATION OF GOVERNMENT  
12 WITNESSES BY THE DEFENSE TO THE GOVERNMENT, ALBEIT LATE  
13 YESTERDAY. I WOULD ALSO NOTE THAT IT HAS NOT BEEN UNCOMMON FOR  
14 THE DEFENSE TO BE RECEIVING INFORMATION SUCH AS THE DOCUMENTS  
15 PREPARED BY MR. JOHNSON ON A SIMILAR SCHEDULE.

16 THESE, IN CONTRAST, ARE NOT TEXT HEAVY DOCUMENTS OR DATA  
17 HEAVY DOCUMENTS IN ANY WAY.

18 THE COURT: MR. JOHNSON PREPARED THE CHARTS; RIGHT?

19 MS. LIE: THAT'S CORRECT.

20 THE COURT: AND I THINK YOU MADE INQUIRY ABOUT THOSE  
21 EARLIER, AND I ASKED THE GOVERNMENT AND AT THAT TIME THEY HAD  
22 NOT BEEN PREPARED; IS THAT RIGHT?

23 MR. FAZIOLI: WE PROVIDED MATERIALS AND  
24 SPREADSHEETS. MR. JOHNSON TESTIFIED YESTERDAY AND ON TUESDAY,  
25 AND WE PROVIDED MATERIALS AND SPREADSHEETS ON SUNDAY EVENING.

1 WE THEN PROVIDED THE ACTUAL EXHIBITS THAT MR. JOHNSON WAS GOING  
2 TO TESTIFY TO ON MONDAY, AND WE ALSO INDICATED TO DEFENSE  
3 COUNSEL THAT IF THEY NEEDED SOME TIME TO REVIEW THOSE CHARTS,  
4 THAT WE WOULD BE OPEN TO GIVING THEM AN OPPORTUNITY TO DO THAT.

5 AND AS I UNDERSTAND IT THERE WAS NO OBJECTION RAISED TO  
6 THE TIMING ISSUE IN THAT REGARD. GOVERNMENT COUNSEL DID NOT  
7 RECEIVE THESE MATERIALS UNTIL THIS MORNING. AND I --

8 THE COURT: WELL, WITH THE EXPLANATION OF MS. LIE  
9 REGARDING THESE, THAT SHOULD ASSIST YOU IN YOUR REVIEW OF THEM  
10 THIS MORNING I TAKE IT?

11 MR. FAZIOLI: IT SHOULD. IT SHOULD. AND I THINK WE  
12 CAN TRY TO REVIEW THESE EXPEDITIOUSLY AND THEN COME BACK AND  
13 DISCUSS POTENTIAL OBJECTIONS AT THAT POINT.

14 THE COURT: OKAY. ARE YOU GOING TO REST THIS  
15 MORNING? DO YOU HAVE ANY ADDITIONAL WITNESSES TO CALL, THE  
16 GOVERNMENT?

17 MR. FAZIOLI: NO.

18 THE COURT: AND THEN YOU HAVE WITNESSES AVAILABLE TO  
19 CALL NOW?

20 MS. GARRIDO: YES.

21 THE COURT: AND WOULD YOUR WITNESSES NECESSARILY BE  
22 EXAMINED REGARDING ANY OF THESE EXHIBITS?

23 MS. GARRIDO: YES.

24 THE COURT: ALL RIGHT. WELL, LET'S TELL OUR JURY  
25 WE'LL HAVE UNTIL 10:00 O'CLOCK, AND WE'LL BREAK UNTIL 10:00

1 O'CLOCK. IT'S NOW 9:30. AND WE'LL HAVE TO TELL THEM THAT  
2 WE'LL RESUME AT 10:00 O'CLOCK. WE'LL HAVE TO GIVE THE  
3 GOVERNMENT AN OPPORTUNITY TO REVIEW THESE DOCUMENTS.

4 IN THE INTERIM, LET'S TALK ABOUT OTHER ISSUES. THERE'S A  
5 MOTION THAT I THINK I RECEIVED THIS MORNING FROM THE DEFENSE TO  
6 INTRODUCE A STATEMENT THAT WAS MADE BY MR. FAZIOLI DURING A  
7 HEARING IN REGARDS TO EVIDENCE HERE. AND YOU'RE SEEKING, THE  
8 DEFENSE IS, IS SEEKING TO INTRODUCE THAT AS A STATEMENT OF A  
9 PARTY OPPONENT?

10 MS. GARRIDO: THAT'S CORRECT.

11 THE COURT: WHO IS ARGUING THAT?

12 MS. LIE: I WILL.

13 THE COURT: OKAY. WHAT ELSE WOULD YOU LIKE ME TO  
14 KNOW IN FAVOR OF THAT MOTION?

15 MS. LIE: YOUR HONOR, I'M PREPARED TO SUBMIT IT  
16 ON -- WELL, I THINK THAT OUR BRIEFING COVERS IT ESSENTIALLY. I  
17 DO BELIEVE UNDER THE CIRCUMSTANCES THAT THIS IS INFORMATION  
18 THAT IS AS CLEARLY A STATEMENT OF A PARTY OPPONENT AS ANYTHING  
19 THAT WE HAVE HAD IN THIS CASE OTHER THAN STATEMENTS OF  
20 MS. HOLMES'S PERSONALLY ELSEWHERE.

21 I THINK THAT THE GOVERNMENT MADE NOTE OF THE ISSUE OF  
22 THE -- THE RELEVANCE OF THE AGENCY RELATIONSHIP BETWEEN  
23 COUNSEL. IN THEIR ARGUMENT IT WAS MR. LIEDERMAN AND THEIR  
24 CLIENT AND POINTED OUT, IN FACT, THAT STATEMENTS OF COUNSEL  
25 WERE PROPERLY ATTRIBUTED TO THE PARTY BEING REPRESENTED.

1 AND IN THIS CASE WE HAVE ESSENTIALLY THE IDENTICAL, THE  
2 IDENTICAL SITUATION.

3 THE FACTS OF THE -- THE FACT OF THE STATEMENT IS READILY  
4 ASCERTAINABLE AS IS, YOU KNOW, ANY READ BACK THAT IS AVAILABLE  
5 TO THE JURY OR TO THE COURT UPON REQUEST AND CERTAINLY A COMMON  
6 OCCURRENCE.

7 AND THE RELEVANCE OF THAT STATEMENT GOES DIRECTLY TO ONE  
8 OF THE DISPUTED ELEMENTS AND A PARTICULAR FACTOR THAT THE  
9 GOVERNMENT HAS MADE MUCH OF WHICH IS WHETHER THE ADVERSARY  
10 PROCEEDING THAT WAS INITIATED BY THE TRUSTEE WOULD BE CONSTRUED  
11 AS A LAWSUIT.

12 I THINK THAT THE VERY FACT THAT THE GOVERNMENT WAS  
13 INSISTING INITIALLY UPON PRESENTING EXPERT TESTIMONY AND ITS  
14 ARGUMENTS IN FAVOR OF THAT ARE ABSOLUTELY FAIR GAME FOR THE  
15 JURY TO BE APPRISED OF BECAUSE IT DOES GO TO THE FACTOR OF --  
16 ONE OF THE FACTORS THAT THEY WILL BE CALLED UPON TO DECIDE.

17 THE COURT: OKAY. DOES THE GOVERNMENT WISH TO BE  
18 HEARD?

19 MR. FAZIOLI: WE THINK THE ARGUMENT IS COMPLETELY  
20 MERITLESS FOR HALF A DOZEN REASONS. IF THE COURT WOULD WISH US  
21 TO GO THROUGH THOSE REASONS?

22 THE COURT: WELL, I'LL GIVE YOU AN OPPORTUNITY TO  
23 PUT YOUR OBJECTIONS, IF YOU HAVE THEM, ON THE RECORD.

24 MR. FAZIOLI: YES. A COUPLE OF THINGS. FIRST OF  
25 ALL, THE ARGUMENTS OF COUNSEL ARE NOT AN ASSERTION OF FACT,

1 AND, THEREFORE, NOT AN 802 -- 801(D) (2) ADMISSION.

2 TO THE EXTENT THAT THIS ARGUMENT WOULD GET ANY KIND OF  
3 CREDENCE, THE GOVERNMENT SHOULD BE EQUALLY JUSTIFIED IN  
4 INTRODUCING STATEMENTS MADE BY DEFENSE ATTORNEYS AT ANY  
5 PRETRIAL HEARING TO THE JURY.

6 THE DEFENSE HAS NOT SUBMITTED A TRANSCRIPT OF WHAT WAS  
7 ACTUALLY SAID. I THINK THERE WAS A CONCERN THAT THERE MAY BE A  
8 MISCHARACTERIZATION OF WHAT WAS SAID IN THE GOVERNMENT'S  
9 POSITION BY TAKING A SENTENCE POTENTIALLY OUT OF CONTEXT.

10 TO THE EXTENT THAT IT'S MY RECOLLECTION, WITHOUT THE  
11 BENEFIT OF THE TRANSCRIPT, IS THAT THE DISCUSSION ABOUT THIS  
12 WAS MADE IN THE DISCUSSION OF WHY A LAYMEN JUROR WOULD BENEFIT  
13 FROM EXPERT TESTIMONY REGARDING A 363(H) LAWSUIT.

14 THAT IS DIFFERENT IN KIND FROM ANY SORT OF CONCESSION THAT  
15 THIS DEFENDANT WAS CONFUSED ABOUT THIS 363(H) LAWSUIT.

16 THE STATEMENT WAS CERTAINLY NOT WHAT ARE CATEGORIZED IN  
17 SOME OF THE CASE LAW AS ASSERTIONS OF FACT THAT ARE THE  
18 EQUIVALENT OF A TESTIMONY STATEMENT BY THE UNITED STATES. IT'S  
19 APPLES AND ORANGES. I THINK TO SOME EXTENT THIS IS  
20 MISCATEGORIZING WHAT WAS SAID IN THE CONTEXT OF WHAT WAS SAID.

21 THE GOVERNMENT WAS NOT ALLOWED TO PRESENT THE EXPERT  
22 OPINION ANYWAY. THE COURT DECIDED THAT WE WERE NOT ALLOWED TO  
23 PRESENT THE EVIDENCE FROM AN EXPERT THAT A 363(H) COMPLAINT WAS  
24 A LAWSUIT.

25 SO THE STATEMENT THAT WAS MADE BY THE GOVERNMENT IN

1 ADVOCACY HAS NO RELEVANCE. EVEN IF WE HAD BEEN ABLE TO PRESENT  
2 THAT TESTIMONY AND MAKE THAT OPINION, THE STATEMENT BY THE  
3 PROSECUTOR WOULD HAVE NO PROBATIVE VALUE UNDER RULE 401.

4 TO ADMIT A STATEMENT BY A PROSECUTOR THAT WAS MADE IN THE  
5 COURSE OF ADVOCATING FOR A PARTICULAR ISSUE, TO ADMIT THAT AS  
6 EVIDENCE WOULD BE COMPLETELY CONTRARY TO THE LETTER AND PURPOSE  
7 OF THE INSTRUCTION THAT THIS COURT WOULD MAKE TO THE COURT THAT  
8 WHAT PROSECUTORS SAY IS NOT EVIDENCE.

9 YOU WOULD HAVE A CIRCUMSTANCE WHERE ONE FRAGMENT WOULD BE  
10 EVIDENCE BUT OTHER THINGS THAT ARE SAID ARE NOT EVIDENCE. IT'S  
11 CONTRARY TO THE PURPOSE OF THE INSTRUCTION, AND IT WOULD BE  
12 CONFUSING.

13 THE CASES THAT THE DEFENDANT CITES GENERALLY INVOLVE  
14 PROSECUTORIAL ARGUMENTS IN A PRIOR JURY TRIAL THAT WERE MADE TO  
15 A JURY THAT WERE INCONSISTENT WITH THE GOVERNMENT'S THEORY IN A  
16 CONSISTENT TRIAL, NOT STATEMENTS THAT WERE MADE OUTSIDE OF THE  
17 PRESENCE OF THE JURY.

18 THERE WOULD BE A SUBSTANTIAL CHILLING EFFECT AND OTHER  
19 EFFECTS BY USING IT AS EVIDENCE AGAINST THE GOVERNMENT A  
20 STATEMENT, OR OTHER PARTIES, MADE DURING THE COURSE OF  
21 LITIGATION OUTSIDE OF THE PRESENCE OF THE JURY.

22 THERE'S A CASE LAW. THERE IS A CASE UNITED STATES VERSUS  
23 KENDRICK AND IT'S AN ELEVENTH CIRCUIT CASE, 682 F.3D 974, 2012,  
24 AND THERE IS ALSO THE DELOACH CASE ON THE ELEVENTH CIRCUIT.  
25 THERE ARE A LOT OF DIFFERENT PROCEDURAL HURDLES THAT ARE

1 NECESSARY TO INTRODUCE A PROSECUTOR'S STATEMENT AND NONE OF  
2 WHICH APPEAR TO BE MET HERE.

3 AND, FINALLY, IF THERE EVEN WEREN'T SUCH PROCEDURAL  
4 HURDLES FOR INTRODUCING A PROSECUTOR'S STATEMENT IN EVIDENCE,  
5 THE MERE RULE 403 ANALYSIS WOULD MERIT THE EXCLUSION OF THE  
6 STATEMENT. IT HAS NO PROBATIVE VALUE. AND IT WOULD BE HIGHLY  
7 CONFUSING AND WASTING OF TIME.

8 THERE'S CASE LAW THAT DISCUSSES ABOUT HOW THE JURY COULD  
9 BE CONFUSED ABOUT AN ESTOPPEL EFFECT AND EVEN IF THE STATEMENT  
10 WAS INTRODUCED, THE GOVERNMENT WOULD BE ENTITLED TO AN  
11 OPPORTUNITY TO EXPLAIN AWAY THE DEFENDANT'S INFERENCE IS FROM A  
12 STATEMENT WHICH WOULD REQUIRE THAT THE JURY BE INFORMED OF THE  
13 EVIDENCE INTRODUCED AND THE ARGUMENTS MADE AT THE PRIOR TRIAL,  
14 WHICH WOULD BE UNDULY TIME-CONSUMING AND MIGHT CREATE A  
15 SITUATION WHICH GOVERNMENT COUNSEL WOULD HAVE TO BE MAKING AN  
16 ARGUMENT EXPLAINING A PIECE OF EVIDENCE REGARDING WHAT THEY  
17 MADE.

18 FOR THAT AND OTHER REASONS THE MOTION IS COMPLETELY  
19 MERITLESS AND SHOULD BE DENIED.

20 THE COURT: MS. LIE, DO YOU HAVE A RESPONSE, IF YOU  
21 WISH?

22 MS. LIE: YOUR HONOR, THE GOVERNMENT'S ARGUMENT THAT  
23 THE STATEMENT WASN'T EVIDENCE AT THE TIME IT WAS MADE IT WAS  
24 ARGUMENT AND NOT EVIDENCE AT THE TIME IT WAS MADE, AND,  
25 THEREFORE, IT CAN'T BECOME EVIDENCE LATER ON IS BELAYED BY THE

1 CASES THAT ARE CITED BY THE DEFENSE IN THOSE PAPERS.

2 IN THOSE SITUATIONS, NOTWITHSTANDING THE FACT THAT IT'S A  
3 PRIOR JURY TRIAL, IT'S NONETHELESS ARGUMENT OF COUNSEL, AND IN  
4 THAT PROCEEDING WAS NOT EVIDENCE AT THAT TIME BUT BECAME  
5 EVIDENCE BY VIRTUE OF ITS RELEVANCE IN A LATER PROCEEDING.

6 WE HAVE EXACTLY THE SAME COMMENT HERE. THE FACT THAT IT  
7 WAS MADE IN A CONTEXT OF ARGUING ABOUT WHAT A LAY JUROR WOULD  
8 BELIEVE DOESN'T PROVIDE A BASIS FOR DISTINGUISHING ITS  
9 RELEVANCE AS TO MS. HOLMES AND THE ELEMENT THAT THE JURY IS  
10 GOING TO BE CALLED UPON TO DECIDE AS TO MS. HOLMES.

11 IT IS A CIRCUMSTANCE WHERE THERE IS NO BASIS AND THERE  
12 WILL BE NO BASIS AFTER THE PRESENTATION OF THE GOVERNMENT'S  
13 CASE TO DISTINGUISH MS. HOLMES'S GENERAL KNOWLEDGE AND  
14 FAMILIARITY WITH BANKRUPTCY LAW FROM THE SITUATION OF A TYPICAL  
15 JUROR.

16 AND SO IF THAT'S A FOUNDATIONAL CONCERN THAT THE  
17 GOVERNMENT HAS THAT THERE MIGHT POTENTIALLY BE EVIDENCE THAT  
18 WOULD DISTINGUISH MS. HOLMES AND ESTABLISH SOME EXPERTISE, I  
19 CAN PRESENT IT TO THE COURT THAT WE WILL NOT BE PROFFERING ANY  
20 SUCH EVIDENCE AND THE GOVERNMENT WILL BE HARD PRESSED TO ELICIT  
21 SUCH EVIDENCE FROM ANY OF THE DEFENSE WITNESSES.

22 AND SO AT THIS POINT I UNDERSTAND THE GOVERNMENT'S  
23 DISCOMFORT ABOUT THEIR STATEMENTS BEING USED AGAINST THEM, AND  
24 I RESPECT THAT, HOWEVER, THERE'S NOTHING ABOUT THEIR FACTUAL  
25 ASSERTION IN THE COURSE OF ARGUMENT THAT THIS INFORMATION, THEY



1 RECOGNIZE, WOULD BE HARD FOR A LAYPERSON TO UNDERSTAND AND THIS  
2 IS A DISTINCTION BETWEEN THE ADVERSARY PROCEEDING UNDER THE  
3 BANKRUPTCY CODE VERSUS AN ACTUAL LAWSUIT THAT THIS WOULD BE A  
4 CONCEPT THAT REQUIRES EXPERT EXPLICATION, SOMETHING ABOUT THAT  
5 FACTUAL ASSERTION THAT IS SOMEHOW PROTECTED BECAUSE IT WAS MADE  
6 DURING THE COURSE OF ARGUMENT IF IT IS, IN FACT, RELEVANT TO  
7 THE ISSUE AT HAND.

8 AND THE ONLY BARRING OF ADMISSIBILITY IS REALLY WHETHER  
9 IT'S HEARSAY OR NOT, AND IT'S CLEARLY NOT GIVEN THE  
10 RELATIONSHIP BETWEEN THE AGENCY AND GOVERNMENT COUNSEL AND THE  
11 GOVERNMENT GENERALLY AND THE READY ASCERTAINMENT OF THE CONTENT  
12 OF THE STATEMENT.

13 YOU'RE CORRECT, WE DO NOT HAVE A TRANSCRIPT OF IT. WE  
14 WON'T HAVE A TRANSCRIPT OF DEFENSE WITNESS OR GOVERNMENT  
15 WITNESS TESTIMONY THAT THE JURY MIGHT ASK TO BE READ BACK.

16 TO THE EXTENT THAT THE GOVERNMENT QUESTIONS OUR RECITATION  
17 OF THE STATEMENT AND OUR CHARACTERIZATION OF IT, THEY'RE  
18 CERTAINLY WELCOME TO NOTE WHAT THEY THINK IS INCORRECT ABOUT  
19 THIS OTHER THAN MERELY THE CONTEXT. AND I'M NOT HEARING THAT  
20 FROM THEM.

21 THE COURT: ALL RIGHT. THANK YOU. WELL, IT'S AN  
22 INTERESTING MOTION, AND I CERTAINLY UNDERSTAND WHY THE DEFENSE  
23 WOULD BRING THE MOTION. I DON'T THINK IT FITS, THE FACTS THAT  
24 YOU INDICATED IN THE PLEADINGS DON'T FIT, THE FOUR CORNERS OF  
25 OUR LAWSUIT HERE AND WHAT HAS HAPPENED IN OUR CASE HERE.

1 IN ESSENCE THERE WAS A HEARING REGARDING WHETHER OR NOT  
2 THE GOVERNMENT'S EXPERT WOULD BE PERMITTED TO TESTIFY AND AS TO  
3 WHAT ISSUES AND THE STATEMENTS, ALBEIT NOT SPECIFIC IN YOUR  
4 MOTION, BUT YOU GENERALLY TALK ABOUT WHAT MR. FAZIOLI HAD SAID,  
5 OR WHAT YOU BELIEVE THE DEFENSE BELIEVES HE SAID, AND THOSE  
6 STATEMENTS IN THE CONTEXT OF ADVOCATING THE COURT TO ALLOW THEM  
7 TO PUT ON CERTAIN EVIDENCE.

8 THE DEFENSE ADVOCATED AGAINST THAT, AND THE DEFENSE WON  
9 THAT ISSUE. AND I DIDN'T ALLOW THE GOVERNMENT TO GO FORWARD  
10 WITH THAT PARTICULAR EVIDENCE AS EXPERT EVIDENCE.

11 I DON'T THINK THE COMMENTS IN THE CONTEXT OF THAT COLLOQUY  
12 REGARDING THAT PARTICULAR ISSUE REALLY FOLLOW THE CONTEXT IN  
13 THE FOUR SQUARES OF CASES THAT YOU CITE. I THINK THEY'RE  
14 DIFFERENT CIRCUMSTANCES HERE.

15 COUNSEL ARE ENTITLED TO CHANGE THEIR MINDS ABOUT THEIR  
16 EVIDENCE, CHANGE THEIR ARGUMENTS IN THE MIDDLE OF THE CASE,  
17 PERHAPS, AND TO ALLOW EITHER SIDE TO THEN GET THAT EVIDENCE IN  
18 UNDER THOSE CIRCUMSTANCES.

19 I THINK IT HAPPENS. AND IT DOES, UNDER A 403 ANALYSIS,  
20 CREATE A SITUATION WHERE IT WOULD BE MORE TIME-CONSUMING AND  
21 CERTAINLY CONFUSING TO A JURY TO ALLOW COUNSEL TO THEN ARGUE  
22 THE MERITS OF THOSE CASES IN THEIR CLOSING ARGUMENTS AS WELL AS  
23 TO HAVE THE COURT MANIFEST AND CREATE INSTRUCTIONS THAT WOULD  
24 TRY TO CREATE SOME CLARITY TO THOSE, AND I THINK FOR 403  
25 PURPOSES, IF NOTHING ELSE. SO I'LL RESPECTFULLY DECLINE YOUR

1 INVITATION TO PERMIT THAT. THANK YOU VERY MUCH.

2 NOW, LET'S MOVE ON TO THE DECLARATION OF MR. PAIGE, AND  
3 THERE WAS A DOCUMENT FILED TO REVISIT THAT ISSUE. PREVIOUSLY  
4 THIS ISSUE HAD BEEN BEFORE THE COURT, AND THE COURT INDICATED  
5 ITS REASONS. I THINK THIS WAS DURING IN LIMINE MOTIONS, AND I  
6 HAD INDICATED REASONS AT THAT TIME WHY THAT STATEMENT WOULD NOT  
7 BE ADMISSIBLE AND THE DEFENSE INTRODUCED THE RENEWED MOTION TO  
8 ADMIT THE HEARSAY DECLARATION.

9 ANYTHING FURTHER AS TO DEFENSE MOTION?

10 MS. GARRIDO: YES, YOUR HONOR. WITH REGARD TO THE  
11 GOVERNMENT'S OPPOSITION THAT I RECEIVED THIS MORNING, THE  
12 GOVERNMENT IS ARGUING THAT THE DECLARATION IS INADMISSIBLE  
13 BECAUSE IT LACKS INDICIA OF RELIABILITY, BUT ALL OF THE REASONS  
14 THAT THEY SET FORTH IS ACTUALLY ARGUMENT WHY THE HEARSAY  
15 STATEMENTS OF LEONARD PAIGE THAT THEY THEMSELVES INTRODUCED  
16 ALSO LACK RELIABILITY.

17 THE STATEMENTS THAT WERE INTRODUCED THROUGH COUNSEL IN THE  
18 PLEADINGS WERE PART OF A BANKRUPTCY PROCEEDING, A COURT MATTER,  
19 AND SO THE ARGUMENTS WOULD APPLY EQUALLY FOR WHY THEIR OWN --  
20 WHY THEIR OWN EVIDENCE OUGHT NOT TO HAVE BEEN ADMITTED.

21 THE COURT: SO THE DISTINCTION SEEMS TO BE THAT THE  
22 BANKRUPTCY FILINGS ARE FORM FILINGS. IS THIS WHAT YOU'RE  
23 REFERENCING?

24 MS. GARRIDO: I'M REFERRING TO THE BANKRUPTCY FILING  
25 AS WELL AS I BELIEVE THERE WAS A CASE MANAGEMENT STATEMENT THAT

1 WAS ENTERED INTO EVIDENCE THAT CONTAINS THE STATEMENTS OF  
2 MR. PAIGE, AND THOSE WERE ADMITTED OVER OBJECTION. THERE ARE A  
3 NUMBER OF FILINGS, ACTUALLY, THAT WERE ADMITTED THAT PURPORT TO  
4 CONTAIN THE STATEMENTS OF LEONARD PAIGE.

5 AND EVEN ONE THAT WASN'T EVEN SIGNED BY HIM THAT HAS BEEN  
6 ATTRIBUTED TO HIM.

7 AND SO --

8 THE COURT: ONE OF THE FILINGS IN THE BANKRUPTCY  
9 CASE ITSELF?

10 MS. GARRIDO: YES.

11 THE COURT: HIS BANKRUPTCY CASE?

12 MS. GARRIDO: CORRECT. AND I THINK ALSO ACCORDING  
13 TO THE DECLARATION THAT HAS BEEN SUBMITTED IN OUR PRETRIAL  
14 MOTION TO DISMISS SPECIFICALLY THE DECLARATION OF DR. HEUVLEIN,  
15 THE TREATING DOCTOR FOR MR. PAIGE, IT WAS NOT UNTIL LONG AFTER  
16 EXECUTION OF THE DECLARATION THAT MR. PAIGE'S DEMENTIA  
17 PROGRESSED TO A POINT WHERE HE WAS NO LONGER COMPETENT TO MAKE  
18 LEGAL DECISIONS.

19 SO AT THE TIME THAT HE EXECUTED THE DECLARATION, WHICH WAS  
20 ON JULY 14TH, 2006, HE WAS CERTAINLY COMPETENT TO EXECUTE THIS  
21 TYPE OF DECLARATION. SO I THINK THAT ARGUMENT FALLS FLAT.

22 AND I THINK WHERE THE GOVERNMENT HAS INTRODUCED AN  
23 EXTENSIVE AMOUNT OF MR. PAIGE'S HEARSAY THROUGH THE BANKRUPTCY  
24 FILINGS, THE DEFENSE SHOULD BE ENTITLED TO IMPEACH THOSE  
25 STATEMENTS.

1 IF MR. PAIGE HAS LISTED, FOR EXAMPLE, THE MOONRACKER  
2 PROPERTY AND OWNING A HALF INTEREST, IT DOESN'T GIVE THE FULL  
3 PICTURE WITHOUT HIS DECLARATION THAT HE EXECUTED AND SIGNED  
4 HIMSELF THAT, THAT WASN'T THE FULL STORY, THE FACT THAT HE HAD  
5 50 PERCENT TITLE.

6 SO IT WOULD HELP THE JURY OBVIOUSLY CONTEXTUALIZE IT. IT  
7 INTENDS TO IMPEACH THE DECLARATIONS THAT WERE OFFERED BY THE  
8 GOVERNMENT.

9 AND I THINK THIS DOES REALLY -- I THINK THIS DOES REALLY  
10 IMPACT MS. HOLMES'S RIGHTS TO CONFRONTATION, TO A FAIR TRIAL,  
11 TO DUE PROCESS OF LAW WHERE WE OBVIOUSLY HAVE LITIGATED THE  
12 ISSUE ABOUT MR. PAIGE'S UNAVAILABILITY AND HOW THE DELAY IN  
13 BRINGING THIS CASE IMPACTED THE DEFENSE'S ABILITY TO CALL HIM  
14 AS A WITNESS TO EXPLAIN THESE STATEMENTS.

15 SO AS A MATTER OF FAIRNESS TO MS. HOLMES, CERTAINLY I  
16 THINK IT'S APPROPRIATE TO ALLOW THE DECLARATION IN AND TO  
17 PROVIDE THE NEEDED CONTEXT TO THE STATEMENT THAT -- THE  
18 STATEMENTS THAT THE GOVERNMENT HAS INTRODUCED.

19 THE COURT: THANK YOU. DOES THE GOVERNMENT WISH TO  
20 BE HEARD?

21 MR. FAZIOLI: YES, YOUR HONOR. THIS IS -- YET AGAIN  
22 WE'RE DISCUSSING THIS PARTICULAR DOCUMENT FOR I THINK PERHAPS  
23 THE THIRD TIME.

24 THIS ISSUE HAS BEEN DISCUSSED AT GREAT LENGTH BEFORE, AND  
25 THE COURT HEARD A COUPLE OF DISCUSSIONS ABOUT IT, AND THE COURT

1 SHOULD EXCLUDE IT AND IT SHOULD DO SO FOR A COUPLE OF REASONS.

2 EVEN PUTTING ASIDE THE CASE LAW THAT THIS WAS AN ISSUE  
3 THAT WAS RESOLVED AND RESOLVED AT THE FEBRUARY 23RD, 2013  
4 PRETRIAL CONFERENCE. IT SHOULD -- IT LACKS ANY INDICIA OF  
5 RELIABILITY.

6 IT WAS CREATED BY LEONARD PAIGE, AN INDIVIDUAL THAT AT THE  
7 TIME IN JULY OF 2006 THERE WAS NO DISPUTE THAT HE WAS SUFFERING  
8 FROM DEMENTIA AT THE TIME. THAT FACT STANDING BY ITSELF MAKES  
9 THIS DECLARATION LACKING IN RELIABILITY.

10 THE DECLARATION ALSO CONTAINS A FACTUAL ERROR. THERE'S  
11 ALSO A REFERENCE BY MR. PAIGE ABOUT THE LACK OF MEMORY, ABOUT  
12 HIM NOT RECALLING ABOUT IT.

13 BEFORE YOU EVEN GET TO THESE OTHER ARGUMENTS, THAT'S A  
14 QUESTION THAT PUTS INTO QUESTION ABOUT THE RELIABILITY.

15 FURTHERMORE, AS WE INDICATED, TO THE EXTENT THAT THE  
16 DEFENSE HAS SUCCESSFULLY MOVED IN LIMINE TO PREVENT THE  
17 GOVERNMENT FROM MAKING ANY REFERENCE TO THE FACT THAT MR. PAIGE  
18 HAD ANY DEMENTIA, IT WOULD BE UNFAIR AND CONFUSING TO THE JURY  
19 TO ALLOW THEM TO INTRODUCE A DECLARATION FROM THAT TIME PERIOD  
20 FOR THE TRUTH OF THE MATTERS ASSERTED IN THAT DECLARATION.

21 IF IT WAS ADMITTED, THE GOVERNMENT WOULD BE ON THE ONE  
22 HAND FACED WITH A DECLARATION FROM A PERSON THAT THEY CANNOT  
23 CROSS-EXAMINE, WHILE AT THE SAME TIME TO BE ABLE TO PRESENT TO  
24 THE JURY THE CONTEXT OF THE FACT THAT THE PERSON WHO SUBMITTED  
25 THE DECLARATION HAD DEMENTIA AT THE TIME AND UNABLE TO MAKE AN

1 ARGUMENT POTENTIALLY THAT THIS DECLARATION MAY HAVE BEEN  
2 INDUCED JUST AS RELATED TO THE ISSUE OF THE PRIOR TRANSFER.  
3 THAT'S THE -- THE DEFENSE TO SOME EXTENT SHOULD NOT BE ABLE TO  
4 HAVE IT BOTH WAYS IN THAT REGARD.

5 IT ALSO LACKS INDICIA OF RELIABILITY TO THE EXTENT IT WAS  
6 MADE TO SUPPORT AND FURTHER THE PAIGES'S INTEREST IN THE  
7 BANKRUPTCY PROCEEDING RELATING TO THE FRAUDULENT RECEIPT OF  
8 THIS PROPERTY.

9 IT'S MUCH DIFFERENT IN TERMS OF THE INDICIA OF RELIABILITY  
10 OF THE STATEMENTS THAT HE MADE HERETOFORE IN THE CONTEXT OF A  
11 BANKRUPTCY PROCEEDING WHERE HE MAY NOT HAVE BEEN AS ILL AND  
12 WHERE THERE'S A MUCH HIGHER INDICIA OF RELIABILITY FOR THOSE  
13 STATEMENTS THAN IT WAS FOR SOMETHING THAT HE'S SUBMITTING IN  
14 SUPPORT OF HIS DAUGHTER'S INTEREST IN THE PROPERTY, SOMETHING  
15 HE CREATED IN THE COURSE OF THE LITIGATION, WHICH IS ARGUABLY  
16 DIFFERENT FROM THE BANKRUPTCY FILINGS THAT WERE PREVIOUSLY  
17 ADMITTED.

18 THE BANKRUPTCY FILINGS WERE ALSO ADMITTED IN LARGE EXTENT  
19 BECAUSE THERE WAS A DISCUSSION OF MR. MAHER AND WITH RESPECT TO  
20 HIS ACTIONS AND INTERACTIONS IN SUPPORT OF THE DEFENDANT, AND  
21 IT'S RELEVANT TO EXPLAIN THE NATURE OF THE CASE AND RELEVANT TO  
22 EXPLAIN ABOUT HOW THE DEFENDANT'S ACTIONS FRUSTRATED THE  
23 PURPOSES OF THE BANKRUPTCY CODE.

24 AS PUT FORWARD IN OUR FILINGS, THE DECLARATION DID NOT  
25 HAVE A PURPOSE OR TO EFFECT OR ESTABLISH AN INTEREST IN THE

1 PROPERTY AS I PUT DOWN THERE. IT'S LAID OUT. I'M NOT GOING TO  
2 SUMMARIZE ALL OF THOSE ARGUMENTS AGAIN, BUT IT DOES NOT HAVE A  
3 PURPOSE OF AN EFFECT OF AN INTEREST IN THE PROPERTY. MR. PAIGE  
4 PURPORTED TO TRANSFER HIS INTEREST IN THE PROPERTY AT THE TIME  
5 HE SUBMITTED THIS DECLARATION.

6 THIS IS IN CONTRAST TO THE FILINGS THAT WERE MADE IN THE  
7 BANKRUPTCY PROCEEDINGS, WHICH ALTHOUGH THOSE ITEMS WERE, IN  
8 FACT, ASPECTS OF THE BANKRUPTCY ESTATE, THOSE ARE PROBABLY MORE  
9 SQUARELY WITHIN ITS EXCEPTION -- THE STATEMENTS THAT MR. PAIGE  
10 MADE IN CONNECTION WITH THE SCHEDULES AND OTHER THINGS WITHIN  
11 THE BANKRUPTCY PROCEEDING, THOSE ARE MUCH CLOSER OR WITHIN THE  
12 EXCEPTION FOR STATEMENTS AFFECTING AN INTEREST IN PROPERTY AS  
13 OPPOSED TO A DECLARATION WHICH IS SUBMITTED AFTER A FRAUDULENT  
14 TRANSFER OF THAT INTEREST IN WHICH MR. PAIGE HAS PURPORTED TO  
15 ESSENTIALLY GET RID OF HIS INTEREST IN THAT PROPERTY, THAT A --  
16 THAT AN EX POST DECLARATION TALKING ABOUT THAT PROPERTY CANNOT  
17 BE CONSIDERED A STATEMENT ABOUT THE INTEREST IN THE PROPERTY  
18 BECAUSE HE DOES NOT HAVE ONE ANYMORE.

19 WE DISTINGUISH THE LIVESTOCK CASE. IT'S INADMISSIBLE FOR  
20 THE ALLEGED EFFECT ON MS. HOLMES. THERE'S NOTHING INDICATED IN  
21 THE DECLARATION THAT IT HAD A PARTICULAR EFFECT ON MS. HOLMES.  
22 IT IS, AGAIN, IS SIMPLY AN ATTEMPT TO BRING IN HEARSAY AND IT'S  
23 ALSO INADMISSIBLE UNDER 806.

24 IT'S NOT RELEVANT TO MR. PAIGE'S CREDIBILITY IN THIS  
25 REGARD. THIS IS JUST MORE NEWLY INVENTED -- THIS IS THREE



1 ADDITIONAL THEORIES ABOUT WHY THE DEFENSE SHOULD BE ABLE TO GET  
2 IN DECLARATIONS AND STATEMENTS OF MR. PAIGE.

3 THIS IS AN ISSUE THAT WAS DISCUSSED. IT WAS DISCUSSED AT  
4 THE FEBRUARY 12TH PRETRIAL CONFERENCE. IT WAS DISCUSSED IN THE  
5 CONTEXT OF THE INDICTMENT FOR PRE-INDICTMENT DELAY. IT'S  
6 HEARSAY. IT SHOULD NOT -- THIS PARTICULAR DECLARATION SHOULD  
7 NOT BE ALLOWED AS EVIDENCE, AND THE COURT SHOULD ALSO LIMIT  
8 TESTIMONY ABOUT MR. PAIGE'S STATEMENTS THAT COMES OUT FROM  
9 OTHER WITNESSES AS THAT STATEMENT IS -- THOSE STATEMENTS ARE  
10 HEARSAY AND NOT PARTICULARLY RELIABLE IN GENERAL BUT ALSO IN  
11 THE PARTICULAR CONTEXT OF STATEMENTS MADE TO THE FAMILY MEMBER  
12 BY SOMEONE WHO WAS SUFFERING FROM AN ILLNESS, AN ILLNESS THAT  
13 NOTWITHSTANDING THE FACT THAT BASED ON THE JURY INSTRUCTION,  
14 THE DEFENSE APPARENTLY WANTS TO MAKE THIS ILLNESS AN ISSUE IN  
15 THE JURY INSTRUCTIONS WHICH WE WOULD OBJECT TO.

16 WE HAVE BEEN PREVENTED FROM GETTING INTO THIS TOPIC DURING  
17 THE TRIAL, AND WE THINK IT'S INAPPROPRIATE TO GET INTO  
18 MR. PAIGE'S STATEMENTS WITHOUT OUR BEING ABLE TO GET INTO THE  
19 ENTIRE STORY.

20 SO I'M WILLING TO SUBMIT THAT UNLESS THE COURT HAS ANY  
21 ADDITIONAL QUESTIONS.

22 MS. GARRIDO: YOUR HONOR, BRIEFLY. TO THE EXTENT  
23 THAT THE COURT HAS ANY CONCERNS ABOUT THE PREPARATION OF THAT  
24 DECLARATION AND STATE OF MIND AT THAT TIME, WHETHER OR NOT WHAT  
25 HE WAS DISCUSSING WAS TRUSTWORTHY, WE WOULD BE MORE THAN HAPPY

1 TO PRESENT PETER LIEDERMAN AS A WITNESS. IT'S MY UNDERSTANDING  
2 THAT HE'S THE ONE WHO TOOK THAT DECLARATION FROM MR. PAIGE AND  
3 SUBMITTED IT AS PART OF HIS PLEADINGS.

4 WE CAN DO A SHORT HEARING OUTSIDE OF THE PRESENCE OF THE  
5 JURY AND SO MR. LIEDERMAN CAN EXPLAIN THE METHOD OF PREPARATION  
6 AND WHAT MR. PAIGE'S STATE OF MIND WAS AT THE TIME AND SO ON  
7 AND SO FORTH.

8 AND WE'RE NOT INTENDING BY PRESENTING THAT DECLARATION TO  
9 GET INTO MR. PAIGE'S STATE OF MIND AT THE TIME BUT RATHER HIS  
10 STATEMENTS WHICH BEAR DIRECTLY ON THE STATEMENTS THAT THE  
11 GOVERNMENT HAS INTRODUCED WITH RESPECT TO HOW HE VIEWED THE  
12 PROPERTY AT 312 MOONRACKER.

13 THE COURT: DOES THE GOVERNMENT INTRODUCE THAT IN  
14 LIGHT OF THE EXHIBITS, MR. PAIGE'S PLEADINGS, AND HIS,  
15 MR. PAIGE'S BANKRUPTCY? IS THAT WHAT YOU'RE REFERRING TO?

16 MS. GARRIDO: YES.

17 THE COURT: OKAY. WELL, THANK YOU VERY MUCH. SO I  
18 NOTE YOU MADE AN ARGUMENT, THE DEFENSE DID, THAT THIS IS A  
19 STATEMENT IN REGARDS TO AN INTEREST IN PROPERTY.

20 AND I LOOKED AT THAT, AND I DON'T THINK THAT IT IS. AND  
21 THOSE STATEMENTS, AND I THINK YOU CITE A CASE BOULWARE, I THINK  
22 IS THE CASE YOU CITE, I THINK IT'S IN YOUR PLEADINGS, THAT  
23 EXCEPTION AND THOSE DOCUMENTS AND AT LEAST THAT CASE SUGGEST  
24 ARE TYPICALLY DOCUMENTS IN ALL OF THE DEEDS AND REAL DOCUMENTS  
25 THAT INVOLVE PROPERTY AND PROPERTY INTEREST.

1           THIS IS A DECLARATION FILED, WE KNOW WHAT IT IS, BY  
2           MR. PAIGE IN SUPPORT OF -- IN HIS BANKRUPTCY CASE IN AN  
3           ADVERSARY PROCEEDING TO SUPPORT HIS DAUGHTER IT APPEARS.

4           THOSE -- THE EXCEPTIONS FOR THESE OTHER DEEDS AND THOSE  
5           TYPES OF DOCUMENTS ARE -- IT SEEMS TO ME THAT THIS DECLARATION  
6           DOES NOT FIT INTO THE DECLARATION OF DISPOSITIVE DOCUMENTS.

7           TRUSTWORTHINESS IS ALWAYS A FACTOR THAT HAS TO BE  
8           CONSIDERED IN THESE TYPES OF ISSUES. THIS IS WHAT CAN BE  
9           CATEGORIZED AS A SELF-SERVING DECLARATION FILED IN SUPPORT OF  
10          THE DECLARANT'S DAUGHTER'S INTEREST. IT'S OUTSIDE THE TYPICAL  
11          DOCUMENTS THAT ARE INTRIGUED AND CALLED UPON BY THIS STATUTE.

12          I DON'T THINK IT FITS IN THAT EXCEPTION.

13          YOU ALSO SUGGEST THAT THIS WOULD ALLOW FOR ATTACKING AND  
14          SUPPORTING THE WITNESS'S CREDIBILITY.

15          AND WHEN WE HAD OUR IN LIMINE MOTIONS, I WENT THROUGH THE  
16          DECLARATION, AND I DON'T SEE ANY REASON TO DISTURB THAT IN  
17          LIMINE ORDER.

18          THERE WERE, AND I WENT THROUGH SPECIFICS, I THINK, AS BEST  
19          I COULD, ABOUT THE CONTENTS OF THE DECLARATION AND HOW THEY FIT  
20          AT THAT TIME AND NOW WHAT THE DEFENSE WANTED THEM TO OR  
21          PERCEIVED THEM FOR THEIR ADMISSIBILITY, AND I WENT THROUGH  
22          THOSE AND I FOUND THAT YOU'RE ASKING FOR AN INTERPRETATION, THE  
23          DEFENSE WAS, WHEN YOU SUGGESTED IN YOUR IN LIMINE MOTION AN  
24          INTERPRETATION THAT REALLY WASN'T, IT WAS OUTSIDE OF WHAT THIS  
25          DECLARATION ACTUALLY SAID.

1           FOR EXAMPLE, THERE WAS, I THINK, THERE WAS SOME DISCUSSION  
2           ABOUT WHETHER OR NOT MS. HOLMES HAD A HALF INTEREST OR NOT, AND  
3           THE DECLARATION SPEAKS TO SOME HELP THAT HE PROVIDED, MR. PAIGE  
4           PROVIDED, FOR THE HOUSE. HE COULD NOT RECALL SPECIFICS. THE  
5           DECLARATION DOESN'T INDICATE SPECIFICS. THERE'S NO  
6           RECOLLECTION ABOUT DOWN PAYMENT. AND I THINK THAT THE PURPOSE,  
7           AT LEAST IN LIMINE WAS, TO SHOW THAT SHE HAD A GREATER INTEREST  
8           IN THE PROPERTY.

9           AND THE DECLARATION IS -- IT DOESN'T SPEAK SPECIFICALLY TO  
10          THAT. I RECALL WE HAD A DISCUSSION ABOUT THAT.

11          SO I DON'T SEE THAT IT REALLY DOES ATTACK OR SUPPORT THIS  
12          WITNESS'S CREDIBILITY IN THAT REGARD.

13          IT DOESN'T SEEM THAT IT WOULD FIT THAT. IT'S NOT A  
14          CONTEMPORANEOUS DECLARATION. I CAN INCORPORATE BY REFERENCE  
15          THE COURT'S FINDINGS PREVIOUSLY MADE, AND I SEE NO REASON TO  
16          DISTURB THE COURT'S PREVIOUS ORDER, NOTWITHSTANDING THE  
17          DEFENDANT'S MOTION.

18          SO THE DEFENDANT'S MOTION IS DENIED.

19          MS. GARRIDO: YOUR HONOR, I'M SORRY. MAY I JUST  
20          SUPPLEMENT VERY BRIEFLY? THERE'S ONE ASPECT I FAILED TO  
21          ADDRESS IN MY ARGUMENT FOR THE PURPOSE OF THE RECORD.

22          I BELIEVE THAT THE DECLARATION OF LEONARD PAIGE IS  
23          INCONSISTENT WITH THE EVIDENCE THAT THE GOVERNMENT HAS  
24          INTRODUCED THROUGH THE HEARSAY TESTIMONY DELIVERED BY MR. MAHER  
25          THAT MR. LEONARD PAIGE PAID THE MORTGAGE ON THE MOONRACKER

1 PROPERTY BECAUSE THE DECLARATION DIRECTLY ADDRESSES THAT HE  
2 PAID PART OF THE MORTGAGE BUT THAT REPRESENTED REPAYMENT OF  
3 SALARY OWED TO MS. HOLMES. AND SO --

4 THE COURT: BUT MR. MAHER DIDN'T TESTIFY ABOUT THE  
5 REPAYMENT OR ANYTHING, DID HE?

6 MS. GARRIDO: HE TESTIFIED REGARDING SEVERAL CHECKS  
7 THAT HE SAW THAT HE KNOWS THAT MR. PAIGE MADE ON THE PROPERTY.

8 HE ALSO TESTIFIED THAT HE BELIEVED THAT MR. PAIGE MADE  
9 THE MORTGAGE PAYMENTS ON THE HOME UNTIL CONVERSION TO CHAPTER 7  
10 AND THAT TESTIMONY WAS ADMITTED OVER OBJECTION.

11 SO CERTAINLY --

12 THE COURT: I DO RECALL THAT, YES.

13 MS. GARRIDO: YES. SO CERTAINLY TO THE EXTENT THAT  
14 THOSE HEARSAY STATEMENTS OF MR. PAIGE HAVE BEEN ADMITTED TO THE  
15 JURY THROUGH MR. MAHER.

16 THE COURT: I'M SORRY. THE HEARSAY STATEMENTS OF  
17 MR. PAIGE?

18 MS. GARRIDO: YES, HIS WRITING OF A CHECK AND THEN  
19 THAT -- I BELIEVE THAT CHECK IS HEARSAY THAT MR. MAHER HAS  
20 TESTIFIED ABOUT.

21 THIS DECLARATION IS INCONSISTENT WITH THE TESTIMONY OF  
22 MR. MAHER, AND THE FACE OF THE CHECKS THEMSELVES ESSENTIALLY  
23 WHICH PURPORT TO PAY THE ENTIRETY OF THE MORTGAGE WHEREAS THE  
24 TRUTH IS THAT MR. PAIGE WAS PAYING THAT AS REPAYMENT OF SALARY  
25 AND NOT OUT OF HIS OWN POCKET OUT OF HIS OWN FUNDS.

1 THE COURT: WAS THERE TESTIMONY THAT PAIGE WAS PAID?

2 MS. GARRIDO: YES.

3 THE COURT: NOT LEONARD PAIGE BUT THE PAIGES?

4 MS. GARRIDO: OKAY.

5 THE COURT: MAYBE THAT DOESN'T MAKE A DIFFERENCE?

6 MS. GARRIDO: I'M NOT SURE THAT IT DOES, YOUR HONOR.

7 THE COURT: OKAY.

8 MS. GARRIDO: THANK YOU.

9 MR. FAZIOLI: WE DON'T AGREE THAT'S A BASIS FOR  
10 ADMITTING THIS, AND WE'VE BEEN OVER THIS SEVERAL TIMES.

11 THE COURT: WELL, THANK YOU. YOU'VE MADE YOUR  
12 RECORD. THANK YOU. AND THE COURT'S DECISION WILL REMAIN.

13 SO YOU NEED SOME TIME TO REVIEW THESE?

14 MR. FAZIOLI: WE NEED AT LEAST, I'D SAY AT LEAST  
15 HALF AN HOUR TO REVIEW IT AND THEN I THINK WE SHOULD PROBABLY  
16 TO -- I ANTICIPATE WE'LL HAVE SOME OBJECTIONS TO SOME OF THESE  
17 EXHIBITS THAT WE SHOULD TALK ABOUT AHEAD OF TIME TO AVOID  
18 MULTIPLE SIDE-BARS. I DON'T KNOW IF YOU WANT TO COME BACK IN  
19 AN HOUR.

20 THE COURT: WELL, IT'S 10:00 O'CLOCK NOW.

21 I HATE TO KEEP THE JURY -- THEY'RE IN THE JURY ROOM NOW.  
22 I HATE TO KEEP THEM IN THE JURY ROOM FOR AN HOUR. THEY GOT  
23 HERE AT 9:00 O'CLOCK, IF NOT BEFORE. I WONDER IF IT MAKES  
24 SENSE TO RELEASE THEM AND HAVE THEM COME BACK AT 1:00 O'CLOCK.

25 MR. FAZIOLI: I THINK THAT MIGHT MAKE SENSE, YOUR

1 HONOR.

2 MS. GARRIDO: YOUR HONOR, THE TRUTH IS THAT I THINK  
3 VERY FEW OF THESE THEY HAVEN'T SEEN BEFORE. I'M NOT SURE WHY  
4 AN ENTIRE MORNING WOULD BE NECESSARY TO REVIEW THESE EXHIBITS,  
5 BUT IF THE COURT -- IF THAT'S HOW THE COURT WANTS TO PROCEED.  
6 THERE'S A COUPLE OF OTHER MATTERS THAT I WANTED TO RAISE BEFORE  
7 THE COURT AND PERHAPS WE CAN ADDRESS THOSE AS WELL.

8 THE COURT: OKAY. WELL, LET'S DO THAT.

9 LET'S -- MS. GARCIA, DO YOU WANT TO INFORM THE JURY THAT  
10 THEY SHOULD COME BACK AT 1:00 O'CLOCK?

11 THE OTHER ISSUES YOU WANT TO ADDRESS, MS. GARRIDO, DO YOU  
12 WANT TO DO THOSE NOW OR DO THEY RELATE TO THE GOVERNMENT'S  
13 EXHIBITS THAT THEY RECEIVED THIS MORNING?

14 MS. GARRIDO: THEY DO NOT RELATE TO THE EXHIBITS.  
15 THE FIRST HAS TO DO WITH A WITNESS I'M GOING TO BE CALLING  
16 PERHAPS TOMORROW AT THIS RATE. AMMAR SAHELI.

17 IN THE STATEMENT THAT WE PROVIDED TO THE GOVERNMENT  
18 MR. SAHELI STATED THAT HE HAD A MISDEMEANOR CONVICTION FROM  
19 WHEN HE WAS 19 YEARS OLD, AND I JUST WANT TO MOVE TO EXCLUDE  
20 THAT AND ANY OTHER IMPEACHMENT THAT THE GOVERNMENT MAY HAVE AS  
21 TO DEFENSE WITNESSES THAT HAVE APPEARED ON THEIR WITNESS LIST.

22 MR. FONDO: I'M NOT SURE WHAT THE LAST STATEMENT WAS  
23 BUT AS TO THIS PARTICULAR WITNESS, WE DO NOT INTEND TO  
24 CROSS-EXAMINE HIM ABOUT HIS MISDEMEANOR.

25 THE COURT: OKAY.

1 MS. GARRIDO: I WOULD ASK THAT NO OTHER PRIOR BAD  
2 ACTS OR CONVICTIONS BE USED FOR CROSS-EXAMINATION PURPOSES. I  
3 HAVE NOT RECEIVED NOTICE THAT THE GOVERNMENT INTENDS.

4 THE COURT: FOR THIS WITNESS?

5 MS. GARRIDO: FOR ANY WITNESS, ANY DEFENSE WITNESS.  
6 I HAVE NOT RECEIVED NOTICE FOR ANY OF THOSE. I'M NOT AWARE OF  
7 ANY IMPEACHMENT EVIDENCE AS TO ANY OF THOSE WITNESSES AND IF  
8 THE GOVERNMENT HAS ANY, I WOULD ASK TO BE HEARD WITH RESPECT TO  
9 THAT.

10 MR. FONDO: IF WE BECOME AWARE OF CONVICTIONS, YOUR  
11 HONOR, I'LL CERTAINLY LET THE DEFENSE KNOW.

12 THE COURT: OKAY.

13 MS. GARRIDO: THAT'S ALL I HAD, YOUR HONOR.

14 THE COURT: ALL RIGHT.

15 MR. FAZIOLI: YOUR HONOR, WE HAD SOME AREAS BASED ON  
16 SOME OF THE REPORTS THAT WE HAD SEEN FROM SOME OF THE CHARACTER  
17 WITNESSES, THERE WERE CERTAIN ISSUES WE WANTED TO RAISE. AND I  
18 DON'T KNOW IF NOW IS THE TIME TO DO IT, AND PERHAPS THE  
19 WITNESSES ARE NOT GOING TO BE TAKING THE STAND TODAY.

20 BUT I DON'T KNOW IF THIS IS A GOOD TIME TO DO IT OR WE CAN  
21 DO IT AT A LATER TIME.

22 THE COURT: WELL, WHY DON'T YOU GO THROUGH THE  
23 EXHIBITS AND THEN WE'LL HAVE OUR OWN LITTLE CONVERSATION HERE  
24 ABOUT EVIDENCE. AND ONCE WE HAVE GONE THROUGH EVERYTHING AND  
25 THEN WE CAN TALK ABOUT ANY OTHER EVIDENTIARY ISSUES AND



1 HOPEFULLY RESOLVE THOSE BEFORE 1:00 O'CLOCK BEFORE THE JURY  
2 COMES BACK AND WE'LL START EVIDENCE THEN.

3 SO YOU CAN REVIEW -- IT'S NOW 10:00 O'CLOCK, A LITTLE  
4 AFTER.

5 WHY DON'T I COME BACK AT 10:30 UNLESS YOU COME SOONER?

6 MR. FAZIOLI: 12:30.

7 THE COURT: WELL, I THOUGHT WE WOULD COME BACK IN  
8 30 MINUTES TO SEE WHERE YOU ARE AT AND SEE IF THERE ARE ANY  
9 OTHER ISSUES WE NEED TO TAKE UP WHILE YOU'RE HERE.

10 MR. FAZIOLI: OKAY.

11 THE COURT: GREAT.

12 (RECESS FROM 10:05 A.M. UNTIL 10:38 A.M.)

13 THE COURT: ALL RIGHT. WE'RE BACK ON THE RECORD IN  
14 THE UNITED STATES VERSUS MYRA HOLMES. COUNSEL AND THE  
15 DEFENDANT IS PRESENT.

16 I JUST WANTED TO COME OUT AND CHECK ON THE UPDATE  
17 REGARDING EXHIBITS AND OTHER ITEMS.

18 MR. FAZIOLI: YES, YOUR HONOR, WE'VE HAD AN  
19 OPPORTUNITY IN THE LAST HALF HOUR TO REVIEW THE DISCOVERY THAT  
20 WAS PRESENTED THIS MORNING.

21 I THINK THERE'S SOME EXHIBITS WHICH WOULD NOT BE AN ISSUE  
22 IN LIGHT OF THE FACT THAT THEY'RE PORTIONS OF THE EXHIBIT THAT  
23 HAVE BEEN INTRODUCED BY THE GOVERNMENT, AND I THINK THERE ARE  
24 SOME THAT WOULD BE AN ISSUE AND WE SHOULD TALK ABOUT THEM NOW.

25 THE COURT: OKAY. LET ME JUST GET MY BINDER.

1 OKAY. YOU WANTED TO GO THROUGH THESE?

2 MR. FONDO: GOING IN ORDER A THROUGH N. THE  
3 GOVERNMENT HAS NO OBJECTION TO EXHIBIT A.

4 MR. FAZIOLI: NOW, THIS IS OBVIOUSLY SUBJECT TO A  
5 POSSIBLE RELEVANCE OBJECTION BASED ON THE NATURE OF QUESTIONING  
6 OR SOMETHING ELSE TO THAT EXTENT, BUT WE DON'T AS A THRESHOLD  
7 MATTER OBJECT TO THE ADMISSIBILITY OF THAT.

8 THE COURT: OKAY.

9 MS. LIE: A HAS ALREADY BEEN ADMITTED, I BELIEVE.

10 MR. FONDO: B WE DO NOT OBJECT TO;

11 C, WE DO NOT OBJECT TO C;

12 D, WE DO NOT OBJECT TO D;

13 E WE WANTED CLARIFICATION ON WHETHER IT WAS ADMITTED OR  
14 NOT. I THINK THERE'S A LITTLE BIT OF UNCERTAINTY ABOUT WHETHER  
15 E WAS ADMITTED.

16 MS. LIE: I BELIEVE THAT E WAS ADMITTED DURING THE  
17 TESTIMONY OF MICHELLE GADKER. IT WAS PROFFERED AT THE SAME  
18 TIME AS F. F WAS NOT ADMITTED AT THAT TIME.

19 MR. FONDO: SO BASED ON THOSE REPRESENTATIONS E IS  
20 IN.

21 AND THEN F WE WOULD OBJECT. I THINK THEY TRIED TO GET IT  
22 IN AT THE TIME OF THE WITNESS AND THEY WERE UNSUCCESSFUL AND  
23 OUR POSITION HAS NOT CHANGED ON THAT.

24 MR. FAZIOLI: AND IT'S ALSO UNCLEAR HOW ANY  
25 POTENTIAL DEFENSE WITNESSES ARE GOING TO HAVE ANY PERSONAL

1 KNOWLEDGE ABOUT THE LOAN PROCEDURES THAT ARE REFERENCED IN  
2 EXHIBIT F.

3 MS. LIE: YOUR HONOR, THESE WERE -- YOU INCLUDED ON  
4 THE DEFENSE EXHIBIT LIST BECAUSE THEY PREVIOUSLY HAD BEEN  
5 IDENTIFIED, PREVIOUSLY HAD BEEN DISCUSSED WITH GOVERNMENT  
6 WITNESSES.

7 THESE EARLY DOCUMENTS THAT WE'RE DISCUSSING RIGHT NOW ARE  
8 NOT DOCUMENTS THAT I ANTICIPATE THAT THE DEFENSE WITNESSES ARE  
9 GOING TO BE SPEAKING TO; HOWEVER, TO THE EXTENT THAT MANY OF  
10 THEM ARE EXCERPTS OF EXHIBITS THAT HAVE ALREADY BEEN ADMITTED  
11 BY THE GOVERNMENT, I WOULD THINK THERE SHOULD BE NO OBJECTION  
12 TO THEIR BEING ADMITTED NOW, WHETHER THE WITNESS SPEAKS TO THEM  
13 OR NOT.

14 SPECIFICALLY AS TO F, HOWEVER, I WOULD NOTE THAT F IS A  
15 STATEMENT OF POLICY. IT'S NOT A FACTUAL STATEMENT. IT IS A  
16 PAGE FROM THE WORLD SAVINGS BANK POLICIES THAT WERE PRODUCED TO  
17 THE DEFENSE BY THE GOVERNMENT AND AS SUCH ARE NOT CONTINGENT  
18 UPON MICHELLE GADKER, WHO WAS A WITNESS ON THE STAND AT THE  
19 TIME I BROUGHT THIS UP, MICHELLE GADKER'S AWARENESS OF OR  
20 RECOLLECTION OF THE SPECIFIC POLICIES THAT ARE AT ISSUE IN THIS  
21 TESTIMONY.

22 SHE MADE A -- SHE TESTIFIED AS TO WHAT WORLD SAVINGS  
23 BANK'S POLICY WAS, TO THE EXTENT THAT THE GOVERNMENT PRODUCED  
24 TO THE DEFENSE THAT WORLD SAVINGS BANK POLICIES WERE, IN FACT,  
25 DIFFERENT. THIS IS RELEVANT. I THINK THE ONLY OBJECTION TO

1 THIS IS AUTHENTICITY.

2 CONSIDERING THAT THE GOVERNMENT HAS PRODUCED THIS TO US,  
3 HAVING OBTAINED IT IN THE COURSE OF THEIR INVESTIGATION INTO  
4 THE WORLD SAVINGS BANK POLICIES THEMSELVES, I INQUIRED AFTER  
5 MICHELLE GADKER'S TESTIMONY OF THE GOVERNMENT AND SUBMITTED A  
6 DISCOVERY REQUEST TO THEM, EITHER FOR THE CUSTODIAN'S  
7 DECLARATION WHO HAD PRODUCED THIS IN RESPONSE TO PRESUMABLY A  
8 SUBPOENA, IF THERE HAD BEEN, BECAUSE I THINK THAT UNDER THE  
9 RULES OF EVIDENCE REGARDING SELF-AUTHENTICATING DOCUMENTS, THAT  
10 THAT COULD POTENTIALLY CURE THIS ISSUE TO THE EXTENT THAT THE  
11 GOVERNMENT MIGHT BE TAKING THE INEXPLICABLE POSITION THAT  
12 DOCUMENTS THAT THEY PRODUCED TO US IN THEIR INVESTIGATION WERE,  
13 IN FACT, INAUTHENTIC AND IN THE ALTERNATIVE REQUESTED CHAIN OF  
14 CUSTODY INFORMATION REGARDING EACH AND EVERY DEPARTMENT OF  
15 JUSTICE EMPLOYEE WHO HAD HANDLED THIS DOCUMENT AND WHO COULD  
16 HELP ESTABLISH ITS AUTHENTICITY IN TERMS OF HOW IT WAS  
17 OBTAINED.

18 I HAD NOT GOTTEN A RESPONSE TO THAT OTHER THAN THE  
19 GOVERNMENT'S ASSERTION THAT THERE WAS IN FACT, IN FACT, NO  
20 CUSTODIAN'S DECLARATION. BUT HEARSAY IS NOT A BARRIER TO THE  
21 ADMISSIBILITY OF THIS PARTICULAR DOCUMENT BECAUSE IT'S NOT A  
22 STATEMENT OF FACT BUT RATHER A STATEMENT OF DIRECTIVE OR POLICY  
23 TO VARIOUS EMPLOYEES.

24 IT IS RELEVANT BECAUSE IT IMPEACHES MS. GADKER'S TESTIMONY  
25 AND HER ASSERTED KNOWLEDGE OF THE BROKER AND WHAT THAT

1       CONSTITUTED TO THE EXTENT THAT IT CLEARLY LAYS OUT A DIFFERENT  
2       PROCEDURE IN HANDLING REGULAR MORTGAGE APPLICATIONS VERSUS  
3       PREFERRED MORTGAGE APPLICATIONS.

4               AND TO THE EXTENT THAT THERE IS ANY THEORETICAL  
5       FOUNDATIONAL OBJECTION ON AUTHENTICITY GROUNDS I DO BELIEVE  
6       THAT THE MANNER IN WHICH THIS CAME INTO THE DEFENSE POSSESSION  
7       ADEQUATELY ADDRESSES THAT.

8               THE COURT:   SO YOU'RE NOT SEEKING TO HAVE A WITNESS  
9       SPEAK TO THIS DOCUMENT?

10              MS. LIE:   NO, BUT I DO BELIEVE THAT IT IS A FAIR  
11       SUBJECT FOR ARGUMENT AT THIS POINT.

12              THE COURT:   AND THIS IS A PORTION, THIS LOOKS LIKE  
13       IT'S A PORTION OF THESE LOAN ORIGINATION APPLICATION MANUALS IT  
14       LOOKS LIKE.

15              MS. LIE:   IT IS A PORTION OF THE REAL ESTATE LOAN  
16       POLICY MATERIALS THAT WERE PROVIDED BY THE GOVERNMENT TO THE  
17       DEFENSE SHORTLY BEFORE THE ACTUAL COMMENCEMENT OF TRIAL, AND I  
18       WOULD NOTE THAT THE FORMAT IS IDENTICAL TO THAT OF EXHIBIT E  
19       AND I -- WHICH WERE PREVIOUSLY ADMITTED; AND THAT MS. GADKER'S  
20       SOLE RESERVATION ABOUT EXHIBIT F WAS THAT SHE DID NOT RECALL  
21       THIS PARTICULAR POLICY.

22              SO THIS WAS PRODUCED TO THE DEFENSE, IT WAS BATES NUMBERED  
23       AND MARKED ACCORDING TO, AS I UNDERSTAND IT, HOW IT HAD BEEN  
24       COLLECTED AND PROCESSED BY THE GOVERNMENT AS PART OF ITS  
25       PREVIOUS INVESTIGATION AND IT WAS THEN TURNED OVER TO THE

1 DEFENSE.

2 THE ONLY DIFFERENCE IS THAT WE HAVE REDACTED AT THE  
3 GOVERNMENT'S REQUEST THE FOOTER INFORMATION THAT IDENTIFIED THE  
4 LETTERS U.S.A.O. WERE VISIBLE IN THE BATES NUMBERING FROM THE  
5 PREVIOUS INVESTIGATION AND THE WORDS "CONFIDENTIAL" AND I CAN'T  
6 REMEMBER WHAT THE ACTUAL FOOTER WAS, WERE LIKEWISE REDACTED PER  
7 THE GOVERNMENT'S REQUEST AS TO E -- I'M SORRY -- AS TO EXHIBITS  
8 E AND I.

9 THE COURT: OKAY.

10 MR. FONDO: YOUR HONOR, IT'S NOT OUR DOCUMENT BUT  
11 WE'RE NOT SAYING IT'S NOT A WORLD SAVINGS BANK DOCUMENT. WE'RE  
12 NOT SAYING IT'S AN AUTHENTICATION ISSUE.

13 WHAT WE'RE SAYING IS THAT THIS WITNESS DID NOT REMEMBER  
14 THIS DOCUMENT AND DID NOT REMEMBER THIS, AND IT'S JUST A  
15 ONE-PAGE DOCUMENT. SO I'M NOT EVEN SURE IT SAYS EXACTLY WHAT  
16 DEFENSE COUNSEL IS SAYING IT SAYS.

17 BUT IN ADDITION THE DATE IS MARCH 14TH, 2005. I DON'T  
18 KNOW WHETHER -- YOU KNOW, THERE'S NO EVIDENCE THAT THIS WAS THE  
19 POLICY IN EFFECT AT THE TIME THAT MYRA HOLMES'S LOAN WAS  
20 PROCESSED. I DON'T KNOW ONE WAY OR THE OTHER, QUITE FRANKLY.

21 THE COURT: WAS THE WITNESS ASKED THAT QUESTION?  
22 DID SHE INDICATE ANYTHING ABOUT EXHIBIT F BEING A POLICY AT THE  
23 TIME?

24 MS. LIE: SHE HAD NO RECOLLECTION OF THAT PARTICULAR  
25 POLICY, WHICH IS UNDERSTANDABLE GIVEN HER CONSTRUCTION OF THE

1 PREFERRED MORTGAGE BROKER PROGRAM.

2 HOWEVER, I'LL NOTE THAT EXHIBITS E AND I, I DID ASK HER  
3 WHETHER THESE WERE THE POLICIES IN PLACE, AND I BELIEVE SHE DID  
4 INDICATE THAT THEY WERE.

5 I WOULD ALSO NOTE THERE IS NOTHING FURTHER, ALTHOUGH THERE  
6 ARE POLICIES FROM THE PRODUCTION BY THE GOVERNMENT AS PART OF  
7 THIS UNITARY WHOLE, THERE ARE POLICIES THAT POST-DATE  
8 MS. HOLMES'S LOAN.

9 THERE ARE -- NONE OF THOSE POLICIES THAT POST-DATE THE  
10 LOAN DEAL WITH THIS SPECIFIC ISSUE AND THE LOAN PROCESSING  
11 ISSUE.

12 I PROVIDED THE EXCERPT FROM THE ONE AND ONLY LOAN HANDLING  
13 POLICY THAT THERE WAS IN THE ENTIRE PRODUCTION. THAT  
14 PRODUCTION CLEARLY CONTEMPLATED A DATE RANGE THAT WAS BOTH  
15 BEFORE AND AFTER THE HOLMES LOAN AND THE ABSENCE OF ANY  
16 ANALOGOUS POLICY WITH A SUBSEQUENT DATE I THINK BOLSTERS THE  
17 CASE FOR THE ADMISSIBILITY OF THIS PARTICULAR ONE.

18 AND I WOULD ALSO NOTE THAT TO THE EXTENT THAT THE COURT  
19 HAS ANY RESERVATIONS ABOUT THE FACT THAT I HAVE CHOSEN TO  
20 SIMPLY EXCERPT IT, I WOULD BE HAPPY TO PROVIDE THE WHOLE OF  
21 THAT PARTICULAR SECTION AS IT APPEARED IN THE PRODUCTION FROM  
22 THE GOVERNMENT.

23 THE COURT: MR. FONDO.

24 MR. FONDO: I HAVE NOTHING FURTHER, YOUR HONOR. I  
25 DON'T KNOW WHETHER THIS WAS IN EFFECT IN OCTOBER OR SEPTEMBER

1 OF 2005.

2 THE COURT: AND SHOULDN'T THAT BE A FOUNDATIONAL  
3 ISSUE THAT NEEDS TO BE ESTABLISHED? IF THAT'S WHAT YOU'RE  
4 GOING TO ARGUE IN RE THIS DOCUMENT, SHOULDN'T THERE BE A  
5 FOUNDATIONAL SHOWING THAT THIS WAS OR WAS NOT THE POLICY AT  
6 THAT TIME?

7 MS. LIE: YOUR HONOR, I THINK IF I WERE TO ADMIT  
8 THIS AS A FREE STANDING, AS PART OF WHAT THE GOVERNMENT WOULD  
9 CONSIDER THE DEFENSE CASE IN CHIEF, INDEPENDENT OF ANY WITNESS  
10 TESTIMONY, THEN I WOULD THINK THAT THAT ARGUMENT WOULD HAVE  
11 MERIT.

12 THE REASON THAT I THINK THIS IS AN ALTERNATIVE SITUATION  
13 IS THAT MICHELLE GADKER, WHO WAS EMPLOYED BOTH BEFORE AND AFTER  
14 THIS PERIOD, MADE A BLANKET STATEMENT ABOUT WORLD SAVINGS BANK  
15 POLICIES REGARDING PREFERRED MORTGAGE BROKERS THAT WAS NOT  
16 LIMITED TO TIME, AND IT WAS NOT TEMPORALLY CONTINGENT IN ANY  
17 WAY THAT BASICALLY FOR ALL PURPOSES PREFERRED MORTGAGE BROKERS  
18 WERE SIMPLY THE MORTGAGE BROKERS OF WHICH WORLD SAVINGS BANK  
19 HAD ANY DEALINGS WHATSOEVER.

20 TO IMPEACH THAT TESTIMONY, IT'S FAIR TO INTRODUCE  
21 DOCUMENTARY EVIDENCE THAT ESTABLISHES THAT SHE WAS WRONG ABOUT  
22 THAT.

23 WHETHER IT WAS IN PLACE AT THE TIME OF MS. HOLMES OR NOT,  
24 SHE WAS SIMPLY MISTAKEN ABOUT THE WORLD SAVINGS BANK POLICIES.  
25 AND SO FOR IMPEACHMENT PURPOSES, IT IS APPROPRIATE TO ADMIT



1 THIS WHETHER OR NOT THE COURT IS SATISFIED THAT THIS HAD TO  
2 HAVE BEEN THE POLICY IN PLACE AT THE TIME OF MS. HOLMES'S LOAN.

3 MOREOVER, I WOULD SUBMIT THAT EVEN IF THE COURT BELIEVES  
4 THAT IT NONETHELESS MUST BE, EVEN FOR IMPEACHMENT PURPOSES, TO  
5 IMPEACH HER GENERAL NON-TIME-LIMITED ABSOLUTE STATEMENT ABOUT  
6 HOW WORLD SAVINGS BANK HAS ALWAYS DEFINED PREFERRED MORTGAGE  
7 BROKER, EVEN LEAVING THAT ASIDE, IF THE COURT WERE TO CONCLUDE  
8 THAT IT DOES NEED TO ESTABLISH THAT IT WAS IN PLACE AT THE TIME  
9 OF MS. HOLMES'S LOAN, A PROPOSITION WHICH THE DEFENSE CONTINUES  
10 TO DISPUTE, THE NATURE OF THE PRODUCTION BY THE GOVERNMENT  
11 GIVEN THAT IT DOES SPAN A PERIOD OF TIME, AND THE ABSENCE OF  
12 THAT PRODUCTION FROM ANY OTHER CONFLICTING POLICY, EITHER  
13 BEFORE OR AFTER, DOES ESSENTIALLY GIVE RISE TO THE APPROPRIATE  
14 INFERENCE THAT THIS WAS, IN FACT, THE POLICY IN PLACE.

15 THE COURT: IS THIS, THIS DOCUMENT F, DOES THIS  
16 REFERENCE SPECIFICALLY THE PREFERRED MORTGAGE LOAN  
17 CIRCUMSTANCES, OR IS THIS A DIFFERENT TYPE OF A CIRCUMSTANCE  
18 FOR LOANS?

19 MS. LIE: WHAT EXHIBIT F DEALS WITH IS BASICALLY  
20 DIRECTIONS TO LOAN ORIGINATORS AND HOW TO PROCESS THE FILE.

21 AND IT SPECIFICALLY INDICATES THAT THERE ARE DIFFERENT  
22 PROCEDURES FOR HANDLING THE DOCUMENTATION FOR REGULAR BROKER  
23 LOANS, PREFERRED BROKER LOANS OR PREFERRED MORTGAGE BROKER  
24 LOANS AND THE DIFFERENT MANILA FOLDERS AND THE USE OF MANILA  
25 FOLDERS FOR ONE AND BLUE FOLDERS FOR THE OTHER, WHICH CLEARLY

1 ESTABLISHES THAT THERE WERE LOANS THAT WORLD SAVINGS BANK  
2 PROCESSED ON ITS WHOLESALE SIDE FROM BROKERS WHO WERE NOT, IN  
3 FACT, PREFERRED MORTGAGE BROKERS.

4 AND SO FOR THAT REASON IT SPECIFICALLY REBUTS THE  
5 TESTIMONY BY MS. GADKER AS WELL AS BY MS. GETER THAT THERE  
6 WASN'T REALLY -- YOU KNOW, NO SIGNIFICANCE TO THE PREFERRED  
7 MORTGAGE BROKER DESIGNATION.

8 AND THAT THE TESTIMONY BY MS. GADKER THAT THE WORLD  
9 SAVINGS BANK, ALL OF THE MORTGAGE BROKERS WHO WORLD SAVINGS  
10 BANK DID BUSINESS, WERE BY DEFINITION PREFERRED MORTGAGE  
11 BROKERS.

12 BECAUSE COUNSEL ESSENTIALLY ELICITED FROM MS. GADKER THE  
13 ASSERTION THAT THE CATEGORIZATION OR THE CHARACTERIZATION OF A  
14 MORTGAGE BROKER AS PREFERRED HAD NO SIGNIFICANCE BECAUSE IT  
15 SIMPLY MEANT THAT THEY WERE BROKERS WHO COULD DO BUSINESS WITH  
16 WORLD SAVINGS AND THIS DIRECTLY REBUTS THAT.

17 THE COURT: AND WHAT IS THIS -- THIS SEEMS TO  
18 SUGGEST THAT THEY USED DIFFERENT COLORED FOLDERS FOR THESE  
19 DIFFERENT TYPES OF LOAN APPLICATIONS?

20 MS. LIE: IT DOES. AND THE REASON THAT IS  
21 SIGNIFICANT IS THAT THE LOAN ORIGINATOR, RATHER THAN BEING  
22 DIRECTED TO SIMPLY DISCARD OR REJECT LOAN APPLICATIONS THAT  
23 CAME IN, OTHER THAN THROUGH THE DIRECT RETAIL OR THE PREFERRED  
24 MORTGAGE BROKER CHANNEL, WOULD, IN FACT, PROCESS THESE --  
25 PROCESS LOANS FOR WHAT THEY CALLED REGULAR BROKERS AND

1 MS. GADKER IN HER TESTIMONY SPECIFICALLY DENIED THAT THERE WAS  
2 ANY SORT OF WORLD SAVINGS BANK CATEGORIZATION FOR MORTGAGE  
3 BROKERS.

4 COUNSEL ASKED HER THE DIRECT QUESTION IS THERE SUCH A  
5 THING AS A MORTGAGE BROKER OR A PREFERRED MORTGAGE BROKERS AND  
6 SHE SAID, NO. THIS DIRECTLY CONTRADICTS THIS.

7 THE COURT: SO THIS WOULD BE USED IN ARGUMENT. YOU  
8 WOULD SAY THAT THIS IS EVIDENCE THAT SHE WAS IN ERROR BECAUSE  
9 WHAT THIS SHOWS IS THAT THE MANUAL SAYS REGULAR BROKER LOANS  
10 EXISTED AND YOU USE A BLUE FOLDER. PREFERRED BROKER LOANS  
11 EXISTED, AND YOU WRITE PREFERRED BROKER LOAN ON THE FOLDER,  
12 MANILA FOLDER, AND A PREFERRED MORTGAGE BROKER LOAN EXISTED AND  
13 YOU USE A MANILA FOLDER.

14 IS THAT THE EXTENT OF IT?

15 MS. LIE: THE EXTENT OF IT IS THAT ESSENTIALLY  
16 PREFERRED MORTGAGE BROKERS ESSENTIALLY HAD A FAST TRACK WITH  
17 WORLD SAVINGS BANK, AND I THINK THAT'S A FAIR INFERENCE FROM  
18 THIS DOCUMENT.

19 THE COURT: THAT'S WHAT I WANTED TO SEE IS WHERE  
20 DOES THAT INFERENCE COME FROM THIS DOCUMENT?

21 MS. LIE: I AGREE THAT DOESN'T COME FROM THIS  
22 DOCUMENT, BUT I DON'T BELIEVE IT'S NECESSARY. I DO BELIEVE  
23 THAT THIS DOCUMENT IS A NECESSARY PREDICATE TO BE ABLE TO MAKE  
24 THAT ARGUMENT.

25 AND I WOULD SUBMIT IT'S A FAIR ARGUMENT FROM THE

1 INFORMATION THAT IS PROVIDED HERE FROM THE FACT THAT MS. GETER  
2 WAS, IN FACT, A PREFERRED MORTGAGE BROKER, AND FROM THE NATURE  
3 OF THE HANDLING OF THE MORTGAGE BROKER DOCUMENTS AND, QUITE  
4 FRANKLY, FROM THE FACT THAT IT APPEARS CLEAR FROM THE TITLE  
5 COMPANY FILE THAT OAKLAND FUNDING WAS TREATING THIS AS A DONE  
6 DEAL AS EARLY AS OCTOBER 12TH OF 2005.

7 SO I DON'T THINK IT'S ESSENTIAL FOR ANY GIVEN EXHIBIT BY  
8 THE DEFENSE TO ENCAPSULATE THE WHOLE OF THE ARGUMENT. I THINK  
9 THIS IS A BUILDING BLOCK OF THAT ARGUMENT TOGETHER WITH OTHER  
10 TESTIMONY THAT HAS BEEN PROFFERED AT THIS POINT.

11 AND IF THE COURT OR COUNSEL BELIEVE THAT THERE IS ANYTHING  
12 INAPPROPRIATE ABOUT THE NATURE OF THE ARGUMENT THAT IS OFFERED  
13 BASED UPON THIS DOCUMENT, THE COURT CAN SIMPLY ENTERTAIN AN  
14 OBJECTION AT THIS POINT, BUT THIS DOCUMENT IS RELEVANT AND  
15 ADMISSIBLE BECAUSE IT DOES IMPEACH MS. GADKER'S KNOWLEDGE OF  
16 HER BANK'S OWN POLICIES AND PROCEDURES AT A MINIMUM.

17 THE COURT: YEAH, I CAN UNDERSTAND THAT ARGUMENT AND  
18 THAT HAS A LITTLE MORE CLARITY THAN THE OTHERS. I THINK,  
19 AGAIN, DRAWING INFERENCES FOR AN EXHIBIT MIGHT BE PROBLEMATIC.

20 MR. FONDO: YOUR HONOR, I THINK DEFENSE COUNSEL  
21 MISUNDERSTANDS THIS DOCUMENT. IF YOU LOOK AT IT, AND I'M NOT  
22 100 PERCENT SURE OF THIS, BUT THERE ARE TWO TYPES OF LOANS,  
23 OUTSIDE BROKERS AND INSIDE BROKERS.

24 AND IT SAYS REGULAR BROKER LOAN IS BLUE AND THEN IT SAYS  
25 DOWN BELOW, RETAIL BROKER BLUE. AND I THINK A RETAIL BROKER, I

1 BELIEVE, MAY BE THE INTERNAL LOAN BROKERS. I'M NOT CERTAIN OF  
2 THAT, BUT I THINK IT GOES TO THE POINT OF THERE'S A WITNESS UP  
3 THERE WHO WAS ASKED WHAT IS THIS DOCUMENT, AND SHE SAYS I DON'T  
4 KNOW. I'M NOT FAMILIAR WITH YOUR INTERPRETATION OF THIS  
5 DOCUMENT.

6 AND SO I THINK TO BE ARGUING ON SOMETHING THAT JUST  
7 DEFENSE COUNSEL IS SPECULATING AS TO WHAT CERTAIN THINGS MEAN,  
8 I THINK, FURTHER SHOULD EXCLUDE IT.

9 THE COURT: WELL, MS. LIE, THAT'S MY -- I UNDERSTAND  
10 THE IMPEACHMENT PART OF IT, BUT THE SECONDARY PART IS WHAT DO  
11 WE DO WITH IT? AND THE ABILITY TO EXTRAPOLATE INFERENCES  
12 BEFORE THAT FROM A DOCUMENT THAT IF IT IS RECEIVED IN EVIDENCE,  
13 IT'S EVIDENCE. BUT THEN TO BE ABLE TO COMMENT INFERENTIALLY  
14 WHAT IT REALLY MEANS WHEN THERE'S BEEN NO TESTIMONY TO IT I  
15 THINK IS A DIFFERENT ISSUE.

16 MS. LIE: WELL, I THINK THAT SO DEALING WITH THOSE  
17 TWO CONCEPTS IN ORDER, I THINK THE ADMISSIBILITY THEN -- I  
18 THINK IT SHOULD -- IT COMES IN. I THINK IT CERTAINLY COMES IN  
19 TO IMPEACH MS. GADKER'S BLANKET STATEMENT THAT THERE WAS NO  
20 SUCH THING AS A REGULAR MORTGAGE BROKER.

21 I WOULD DISPUTE ABSOLUTELY GOVERNMENT'S COUNSEL  
22 CHARACTERIZATION OF RETAIL BROKERS OR REGULAR BROKERS AS BEING  
23 WORLD SAVINGS BANK EMPLOYEES.

24 TO THE EXTENT THAT WE HAVE CLEAR EVIDENCE FROM MS. GADKER  
25 FROM THE OTHER BANK EMPLOYEES THAT ESSENTIALLY THERE WERE LOAN

1 REPRESENTATIVES WHO DID THE DIRECT RETAIL BUT THAT BROKERS WERE  
2 OUTSIDE BROKERS AND NOT EMPLOYED BY WORLD SAVINGS BANK, AND  
3 THAT WASN'T RESTRICTED TO PREFERRED OR ANYTHING LIKE THAT.

4 BROKERS WERE PEOPLE FROM THE OUTSIDE WHO WERE ESSENTIALLY  
5 THIRD PARTIES.

6 AND I THINK THAT TO THE EXTENT THAT THE GOVERNMENT  
7 BELIEVES THAT OUR ARGUMENT OR OUR INFERENCE IS FROM THIS ARE  
8 INCORRECT, THEY'RE FREE TO RESPOND TO THAT.

9 BUT THE DOCUMENT SHOULD COME IN BECAUSE IT IMPEACHES  
10 MS. GADKER'S VERY UNAMBIGUOUS TESTIMONY, AND I THINK THE NATURE  
11 OF THE ARGUMENT IS THAT THERE IS A DISTINCTION MADE BY WORLD  
12 SAVINGS BANK BETWEEN REGULAR BROKERS AND PREFERRED MORTGAGE  
13 BROKERS AND THAT THE, THE -- MS. GETER CLEARLY BELONGING TO THE  
14 LATTER CLASS GIVEN THE DOCUMENTATION THAT SHE SUBMITTED, THE  
15 PREFERRED MORTGAGE BROKER STATEMENT AND DEMAND FOR FEES THAT  
16 SHE SUBMITTED AND THE NATURE OF THE HANDLING OF THE LOAN  
17 SUPPORTS THAT AS WELL.

18 AGAIN, I THINK THAT THE GOVERNMENT CAN OBJECT IF THEY FEEL  
19 OR SHE CAN OFFER COUNTER INFERENCES AS THEY HAVE DONE TODAY IF  
20 THEY FEEL THAT WAS INAPPROPRIATE.

21 BUT THE THRESHOLD QUESTION OF ADMISSIBILITY I THINK IS  
22 RESOLVED OR SHOULD BE BY THE FOUNDATION, THE FOUNDATIONAL  
23 TESTIMONY BY MS. GADKER THAT IS TOTALLY CONTRARY TO THE CLEAR  
24 DELINEATION OF SEPARATE CATEGORIES IN THIS DOCUMENT.

25 THE COURT: MR. FONDO?

1 MR. FONDO: I JUST DON'T FIND IT CLEAR. I MEAN,  
2 WE'RE TALKING ABOUT WHETHER SOMEBODY GETS A BLUE FOLDER OR  
3 MANILA FOLDER AND, I MEAN, THAT'S WHAT IT SAYS. AND I DON'T  
4 SEE HOW IT IMPEACHES THE WITNESS. AND I'M NOT SURE, AGAIN, THE  
5 DEFENSE COUNSEL IS INTERPRETING THIS PROPERLY.

6 THEY CERTAINLY COULD HAVE ASKED THE QUESTION, WELL, WHAT  
7 IS A RETAIL BROKER? WHAT IS A PREFERRED MORTGAGE BROKER? HOW  
8 DO THEY DIFFER? AND -- BUT THEY DIDN'T.

9 SO NOW TO BE ABLE TO TRY AND ASSERT THAT THIS DOCUMENT IS  
10 MUCH MORE THAN IT IS I THINK IS INAPPROPRIATE, AND I THINK IT  
11 SHOULD BE EXCLUDED.

12 THE COURT: WELL, I CERTAINLY UNDERSTAND YOUR  
13 ARGUMENT ABOUT IMPEACHMENT WHEN THE WITNESS TESTIFIED ABOUT SHE  
14 HAD NO KNOWLEDGE OF OR THERE WERE NO OTHERS, THERE WERE NO  
15 OTHER BROKERS OTHER THAN -- OR SHE WAS UNAWARE.

16 I SUPPOSE IT HAS SOME VALUE FOR IMPEACHMENT, BUT TO GO  
17 FURTHER THOUGH, I THINK, IS WITHOUT ANYTHING MORE, MS. LIE, IF  
18 THIS WAS ADMITTED, I DON'T THINK YOU WOULD THEN BE PERMITTED TO  
19 ARGUE THAT SUCH LOANS EXISTED IN THEIR OPERATION OF HOW THEY  
20 WORKED AND THOSE TYPES OF THINGS.

21 THE VALUE OF THIS, AS YOU INDICATE, IS TO IMPEACH YOUR  
22 TESTIMONY, MS. GADKER'S TESTIMONY REGARDING HER KNOWLEDGE OF  
23 OTHER REGULAR BROKERS, PREFERRED BROKERS, PREFERRED MORTGAGE  
24 BROKERS OR RETAIL BROKERS.

25 THIS IS A DOCUMENT APPARENTLY FROM THEIR PROCEDURES MANUAL

1 DATED MARCH 14TH, 2005. IT WAS -- IT EXISTED AND IT WOULD BE  
2 ADMISSIBLE, IF AT ALL, FOR THAT PURPOSE, TO IMPEACH HER THAT  
3 THE POLICIES AND PROCEDURES MANUAL SUGGESTED THAT THERE EXISTED  
4 OTHER POSSIBILITIES.

5 BUT TO GO FURTHER AND EXTRAPOLATE THAT ANY OTHER INFERENCE  
6 OTHER THAN THAT IS, I THINK, PROBLEMATIC.

7 MS. LIE: WELL, THEN I WOULD ASK THE COURT TO ADMIT  
8 THIS TO ALLOW THE JURY TO HAVE IT AND TO ALLOW THE JURY TO DRAW  
9 THE INFERENCES THAT THEY CAN DRAW. WHETHER COUNSEL WANTS TO  
10 MAKE ARGUMENT ABOUT IT, I WILL LEAVE THAT TO THEM.

11 BUT AS A THRESHOLD MATTER, THE DOCUMENT, BECAUSE IT DOES  
12 HAVE PROBATIVE VALUE AS IMPEACHMENT EVIDENCE, BECAUSE  
13 MS. GADKER'S TESTIMONY AND HER VERACITY AND HER KNOWLEDGE OF  
14 THE BANK PROCEDURES AND THE RELIABILITY OF HER TESTIMONY IS  
15 ABSOLUTELY AN ISSUE PARTICULARLY GIVEN THE GOVERNMENT ELECTED  
16 NOT TO CALL ANY OF THE OTHER BANK EMPLOYEES WHO PROCESSED THIS  
17 LOAN.

18 I THINK SHE'S -- I THINK THAT THIS MUST COME IN. WHETHER  
19 OR NOT THE COURT IS SEEING FIT TO RESTRICT WHAT COMMENTS CAN BE  
20 MADE REGARDING IT, AND SO I WOULD ASK --

21 THE COURT: PARDON ME FOR INTERRUPTING YOU.

22 AND, MR. FONDO, I WOULD ADMIT THIS SOLELY FOR THE  
23 IMPEACHMENT OF MS. GADKER AND REGARDING OTHER LOANS THAT  
24 EXISTED.

25 HOWEVER, WITHOUT ANY FURTHER FOUNDATION AS TO WHAT THOSE



1 PROCEDURES WERE, WHAT THEY ENTAILED, I DON'T THINK THAT I'M  
2 GOING TO ALLOW YOU TO GO INTO THAT UNLESS THERE'S OTHER  
3 EVIDENCE THAT YOU CAN PROFFER OR SUGGEST SUCH A THING.

4 SO IT WILL BE ADMITTED OVER THE GOVERNMENT'S OBJECTION FOR  
5 THE IMPEACHMENT VALUE THAT IT HAS TO IMPEACH MS. GADKER'S  
6 PREVIOUS TESTIMONY REGARDING THE EXISTENCE OF DIFFERENT BROKER  
7 LOANS OR PREFERRED MORTGAGE BROKERS LOANS.

8 TO DRILL DOWN FURTHER AS TO THE SPECIFICS OF EACH TYPE OF  
9 THOSE LOANS, WHAT THEY ENTAIL, WHAT LOAN OFFICERS DO, WHAT THE  
10 BANK DID AND VIS-A-VIS LOAN APPLICANTS DID WITHOUT FURTHER  
11 FOUNDATION WON'T BE PERMITTED.

12 MS. LIE: VERY WELL.

13 THE COURT: OKAY.

14 MR. FONDO: THANK YOU, YOUR HONOR.

15 SO, YOUR HONOR, EXHIBIT G.

16 THE COURT: YES.

17 MR. FONDO: NO OBJECTION.

18 EXHIBIT H WE WOULD HAVE AN OBJECTION.

19 THE COURT: LET'S SEE. THIS IS A PHOTOGRAPH IT  
20 LOOKS LIKE?

21 MR. FONDO: YES, YOUR HONOR.

22 THE COURT: OKAY. WHAT IS THE OBJECTION?

23 MR. FONDO: RELEVANCE.

24 MS. LIE: YOUR HONOR, I AGREE NO FOUNDATION HAS BEEN  
25 LAID AT THIS POINT.

1 THE COURT: ARE YOU SUGGESTING THE OBJECTION IS  
2 PREMATURE?

3 MS. LIE: YES.

4 THE COURT: ALL RIGHT. WE'LL WAIT ON H AND SEE IF A  
5 FOUNDATION IS LAID.

6 MR. FONDO: YOUR HONOR, ACCORDING TO DEFENSE COUNSEL  
7 EXHIBIT I HAS BEEN ADMITTED. SO IF IT'S BEEN PREVIOUSLY  
8 ADMITTED OBVIOUSLY WHATEVER OBJECTIONS WE MAY OR MAY NOT HAVE  
9 ARE KIND OF MOOT.

10 IF FOR SOME REASON WE LEARN THAT DEFENSE COUNSEL IS WRONG,  
11 AND I HAVE NO REASON TO BELIEVE THAT SHE IS, WE'LL RAISE IT AT  
12 THAT TIME.

13 THE COURT: ALL RIGHT.

14 MR. FONDO: SO AS TO EXHIBIT J, I THINK J IS  
15 ACTUALLY IN ONE OF OUR EXHIBITS. SO WE HAVE NO OBJECTION.

16 THE COURT: OKAY.

17 MS. LIE: I HAD THOUGHT THAT THAT WAS ADMITTED  
18 ALREADY BUT MS. GARCIA'S LIST DOES NOT REFLECT THAT.

19 SO I'LL SUBMIT IT ON -- I'LL SIMPLY ASK TO HAVE THAT  
20 ADMITTED AT THIS TIME IF EVERYONE -- IF THAT IS THE CONSENSUS.

21 THE COURT: WOULD THIS HAVE BEEN IN YOUR 16?

22 MS. LIE: IT IS AN EXCERPT OF 16-291 TO 16-294.

23 THE COURT: I THINK 16 WAS ADMITTED.

24 MS. LIE: 16 WAS DEFINITELY ADMITTED.

25 THE COURT: OVER DEFENSE OBJECTION.

1 MS. LIE: WE OBJECTED TO CERTAIN PORTIONS OF THEM  
2 THAT WERE NOT PREPARED BY WORLD SAVINGS BANK. THIS ONE CLEARLY  
3 WAS AND THAT FOUNDATION WAS FURTHER LAID BY GOVERNMENT  
4 WITNESSES.

5 THIS IS NOT AMONG THE DOCUMENTS THAT WE WERE OBJECTING TO.

6 THE COURT: ALL RIGHT. SO THERE'S NO OBJECTION TO  
7 J?

8 MR. FONDO: TO J? NO OBJECTION TO J.

9 THE COURT: OKAY.

10 MR. FONDO: SO THE NEXT EXHIBIT IS K, YOUR HONOR, I  
11 BELIEVE.

12 THE COURT: YES.

13 MR. FONDO: AND WE WOULD OBJECT TO THIS AS WELL.  
14 THIS IS HEARSAY AND ALSO RELEVANCE.

15 MR. FAZIOLI: THIS APPEARS ALSO TO AGAIN BE A  
16 DOCUMENT THAT WAS WRITTEN BY LEONARD PAIGE. THERE ARE THINGS  
17 IN IT THAT ARE OBJECTIONABLE, AND WE'RE JUST LOOKING AT THIS  
18 BUT LIKE ON PAGE 1 MR. PAIGE IS MAKING A STATEMENT THAT WE WILL  
19 NEVER WAIVER FROM THE HONESTY. AND MR. PAIGE INDICATES HERE ON  
20 THIS DOCUMENT -- I'M NOT ENTIRELY CLEAR OF THE DATE ON THIS  
21 DOCUMENT -- "AS WE CONTINUE TO EXPAND, WE WILL NEVER WAIVER  
22 FROM THE HONESTY, PROFESSIONALISM, AND ATTENTION TO CUSTOMER  
23 NEEDS THAT HAVE BEEN THE CORNERSTONES OF OUR SUCCESS FOR MORE  
24 THAN A DECADE."

25 THIS IS HEARSAY, AND IT'S ALSO VOUCHING ABOUT THE ACTIONS

1 OF PAIGE SECURITY.

2 THERE'S MORE BACKGROUND INFORMATION ON MR. PAIGE.

3 AGAIN, THERE'S MORE ESSENTIALLY OUT-OF-COURT STATEMENTS ON  
4 HERE ON WHAT APPEARS TO BE THE THIRD -- THE FOURTH PAGE.

5 THERE'S REFERENCES TO BACKGROUND CHECKS THAT HAVE TAKEN  
6 PLACE ON THE OFFICERS. TO THE EXTENT THAT THERE IS TESTIMONY  
7 THAT MS. PAIGE IS A -- WAS AN OFFICER OR SOMEONE AFFILIATED AND  
8 THERE WAS REFERENCES TO THE DEPARTMENT OF JUSTICE, WHICH I  
9 THINK IS GOING TO RAISE AND BE JUST CONFUSING AND POSSIBLY LEND  
10 AN INCORRECT OR POTENTIAL INFERENCE AND AGAIN JUST OTHER  
11 STATEMENTS IN HERE WHICH WE JUST VIEW AS NOT APPROPRIATE.

12 THERE'S A REFERENCE TO A PRESIDENTIAL RECOGNITION. IT'S  
13 HEARSAY. IT'S A STATEMENT BY LEONARD PAIGE. IT'S ANOTHER FORM  
14 OF A STATEMENT BY LEONARD PAIGE. WE DON'T THINK IT SHOULD COME  
15 IN, AND WE DON'T NECESSARILY THINK THAT GETTING IN A BROCHURE  
16 FOR THE TRUTH OF THE MATTER IS APPROPRIATE.

17 THERE IS ALSO REFERENCES TO THE BANK ABOUT VARIOUS  
18 CORPORATE SPONSORSHIPS AND FUNDRAISERS AND SPECIAL OLYMPICS AND  
19 STUFF LIKE THAT.

20 IT'S HARD TO SEE WHAT THE RELEVANCE IS TO THIS CASE THAT  
21 THE PAIGE SECURITY MAY HAVE SPONSORED THE SPECIAL OLYMPICS OR  
22 DONE OTHER THINGS SUCH AS THAT.

23 AND THEN AGAIN THE DATE ON THIS IS UNCLEAR.

24 MS. LIE: YOUR HONOR, AT THIS POINT NO FOUNDATION  
25 HAS BEEN LAID. I'LL RESPOND TO SOME OF THE ANTICIPATORY

1 OBJECTIONS THAT HAVE BEEN RAISED BY COUNSEL.

2 AS TO THE HEARSAY COMPONENT OF THIS, THIS DOES NOT NEED TO  
3 BE ADMITTED FOR THE TRUTH OF THE MATTER ASSERTED AND DEFENSE  
4 WOULD HAVE NO OBJECTION TO A LIMITING INSTRUCTION TO THAT  
5 EFFECT OR TO AN ADMONITION OF THE JURY THAT -- TO THE JURY THAT  
6 THE SPECIFIC STATEMENTS CONTAINED HERE ARE NOT NECESSARILY  
7 OFFERED FOR THE TRUTH OF THE MATTER ASSERTED.

8 I THINK WHERE THIS WILL BECOME RELEVANT IS TO ESTABLISH  
9 THE NATURE OF THE EMPLOYMENT THAT MS. HOLMES HAD WITH PAIGE  
10 SECURITY SERVICES.

11 THERE IS GOING TO BE THE TESTIMONY BY ANOTHER EMPLOYEE OF  
12 PAIGE SECURITY SERVICES AS WELL. AND TO THE EXTENT THAT THOSE  
13 WITNESS'S CREDIBILITY MAY BE CHALLENGED AS TO THE SUBSTANTIVE  
14 NATURE OF THE WORK AND WHETHER PAIGE'S SECURITY SERVICE WAS  
15 ACTUALLY A BONA FIDE COMPANY THAT DID REAL WORK AND EMPLOYED  
16 REAL EMPLOYEES DOING WORK SUCH AS THE KIND THAT MS. HOLMES DID,  
17 THEN I BELIEVE THAT THIS IS GOING TO BECOME RELEVANT TO  
18 ESTABLISH THE NATURE OF THEIR OUTREACH AT A MINIMUM TO  
19 ESTABLISH -- ALSO THE NATURE OF MR. PAIGE'S ROLE IN THE  
20 BUSINESS AND HIS PRIDE IN THE BUSINESS AS WELL AND HOW THAT  
21 IMPACTED HIS RELATIONSHIP WITH MS. HOLMES, HIS INTERACTIONS  
22 WITH HER AS WELL AS OTHER EMPLOYEES, THAT MAY BECOME RELEVANT  
23 OVER THE COURSE OF THE DEFENSE EVIDENCE.

24 MR. FAZIOLI: YOUR HONOR, WE'LL ALSO ADD TO THIS  
25 THAT THE BACK -- NOTICE ON THE BACK OF THE DOCUMENT THERE'S

1 APPARENTLY A LETTER FROM FORMER PRESIDENT CLINTON, WHICH IS  
2 INCLUDED WHICH INCLUDES A SENTENCE "YOU AND EVERYONE AT PAIGE'S  
3 SECURE" -- IT LOOKS LIKE IT'S CUT OFF.

4 IT SAYS, "YOU AND EVERYONE AT PAIGE'S SECURITY SERVICES  
5 SHOULD BE PROUD OF YOUR SUCCESS." THIS IS ITSELF DOUBLE  
6 HEARSAY STATEMENT, AND IT COULD BE READ AS SOME SORT OF  
7 CHARACTER VOUCHING BY PRESIDENT CLINTON ON THE PART OF EVERYONE  
8 AT PAIGE SECURITY.

9 IT'S PART OF THE REASON WHY WE SHOULDN'T -- THERE ARE  
10 REASONS WHY WE SHOULDN'T BE ALLOWING A BROCHURE. THE TOPIC  
11 THAT --

12 THE COURT: WELL, YOU CAN SUBPOENA HIM TO COME IN  
13 AND TESTIFY, RIGHT?

14 MS. LIE: I THINK WE'LL STIPULATE THAT THE U.S.  
15 ATTORNEY'S OFFICE IS NOT GIVING CREDENCE TO THE LETTER BY  
16 FORMER PRESIDENT CLINTON AND, AGAIN, WHY A CURING INSTRUCTION  
17 WOULD CURE ALL OF THIS.

18 THE COURT: SO, MR. FAZIOLI, I DO SEE SOME  
19 PROBLEMS -- POTENTIAL PROBLEMS WITH THE DOCUMENT IN TOTO.

20 THE REASONS THAT YOU ARE ARTICULATING FOR ADVANCING ITS  
21 ADMISSION MIGHT BECOME NECESSARY. IT MAY BE THAT THIS DOCUMENT  
22 OR PARTS OF IT MIGHT BE ADMISSIBLE, BUT I CAN CERTAINLY  
23 UNDERSTAND, WE DON'T NEED TO PARSE OUT AND TAKE TIME RIGHT NOW  
24 TO GO THROUGH EACH OF THESE.

25 I THINK -- I APPRECIATE THE GOVERNMENT POINTING OUT SOME

1 OF THE AREAS THAT IT WOULD HAVE DIFFICULTY.

2 IT MAY NOT BE RELEVANT IF THERE'S TESTIMONY ABOUT PAIGE  
3 AND WITNESSES TESTIFY ABOUT THE LEGITIMACY OF THEIR -- OF THE  
4 BUSINESS. IT MAY NOT BE NECESSARY TO GET THIS IN.

5 SO I SUPPOSE THIS IS KIND OF A WAIT AND SEE, BUT I DO NOTE  
6 THAT THERE ARE SOME PROBLEMS WITH SOME OF THE INFORMATION  
7 CONTAINED HERE MIGHT NOT BE RELEVANT FOR THE PURPOSES THAT YOU  
8 SUGGEST. THERE MIGHT BE OTHER ALTERNATIVES TO -- WE KNOW THAT  
9 PAIGE EXISTED. I THINK THERE WERE W-2'S COMING IN BY PAIGES  
10 SECURITY. SO WE KNOW THERE WAS A GROWING CONCERN.

11 MS. LIE: I THINK WHAT WAS ADMITTED AND TESTIFIED TO  
12 WERE ABOUT OTHER SECURITY ORGANIZATIONS, AND SO I DON'T THINK  
13 THERE HAS BEEN OTHER DOCUMENTS ADMITTED REGARDING THE EXISTENCE  
14 OF PAIGES SECURITY SERVICES INCORPORATED, THE CORPORATION.

15 THERE'S BEEN TESTIMONIAL EVIDENCE REGARDING THE EXISTENCE  
16 OF UNFUNDED PENSION OBLIGATIONS AND I THINK THAT -- BUT I DO  
17 THINK THAT THE ADMISSIBILITY OF THIS DOCUMENT CAN BE RULED UPON  
18 AS THE DEFENSE TESTIFIES. AND EVEN IF THE DEFENSE TESTIFIES TO  
19 THE BASIC PRECEPTS I HAVE ADVANCED HERE, I THINK THIS IS  
20 CORROBORATION OF THEM.

21 THE COURT: IT COULD BE CUMULATIVE ALSO.

22 MS. LIE: AND THE DEFENSE WILL LET THE COURT RULE ON  
23 THAT AS IT COMES UP, AND WE CONCEDE AT THIS POINT IT'S VERY  
24 MUCH A CONTINGENT QUESTION.

25 THE COURT: OKAY.

1 MR. FAZIOLI: YOUR HONOR, I THINK THE DEFENSE IS  
2 RIGHT THAT THE W-2'S THAT HAVE BEEN ADMITTED REGARDING THE  
3 DEFENDANT DO RELATE TO EMPLOYERS THAT WERE NOT PAIGE SECURITY.  
4 A1 SECURITY WAS ANOTHER ONE OF THEM AND THEN THERE WAS ANOTHER  
5 EMPLOYER IN 2006.

6 HOWEVER, I DON'T KNOW IF IT'S GOING TO BE A DISPUTED ISSUE  
7 THAT DEFENDANT WORKED FOR PAIGE SECURITY. PAIGE SECURITY WAS A  
8 BUSINESS AND THEN IT ULTIMATELY FAILED AND WENT INTO BANKRUPTCY  
9 AND THE BANKRUPTCY TOOK PLACE IN 2002, WHICH IS SEVERAL YEARS  
10 BEFORE THE OFFENSES THAT REALLY ARE AT ISSUE IN THIS CASE.

11 THERE MIGHT BE SOME ISSUES, I THINK, WITH GETTING INTO AN  
12 EXTENDED DETAILED DISCUSSION ABOUT THE NATURE OF THE FAILURE OF  
13 PAIGE'S SECURITY BUSINESS IN THE EARLY, YOU KNOW, FOUR OR FIVE  
14 OR THREE YEARS BEFORE THE ACTIONS AT ISSUE IN THIS CASE.

15 AND, AGAIN, SOME OF THESE GENERAL TOPICS COULD BE TALKED  
16 ABOUT WITHOUT NECESSARILY HAVING TO GET IN A BROCHURE THAT HAS  
17 TO DO WITH THE ISSUES THAT THE COURT ALLUDED TO AS  
18 POSSIBILITIES.

19 THE COURT: ALL RIGHT. SO THIS WILL BE A WAIT AND  
20 SEE.

21 NEXT IS L.

22 MR. FONDO: YOUR HONOR, CONCEPTUALLY WE DON'T HAVE  
23 AN OBJECTION. IT'S ONLY ONE PAGE OF A TEN PAGE DOCUMENT. I  
24 THINK THE FULL DOCUMENT IS ALREADY IN. AND I APOLOGIZE THAT I  
25 DID NOT RAISE THIS WITH DEFENSE COUNSEL BEFORE. AND THIS JUST



1 KIND OF OCCURRED TO ME.

2 AND I DON'T HAVE A PROBLEM WITH THE DOCUMENT. IT'S JUST  
3 AN EXCERPT FROM A FULL DOCUMENT.

4 MS. LIE: AND, YOUR HONOR, I APOLOGIZE. I THOUGHT  
5 THAT WHAT I HAD REFERENCED AS L AND IDENTIFIED AS L ON THE  
6 RECORD WAS THE TOTALITY OF THE CLOSING INSTRUCTIONS, BUT I MAY  
7 VERY WELL HAVE BEEN INCORRECT ABOUT THAT. AND SO WE COULD  
8 SIMPLY ADMIT THE TOTALITY OF THE CLOSING INSTRUCTIONS.

9 THE COURT: WELL, THIS IS PART OF EXHIBIT 16, I  
10 THINK.

11 MS. LIE: IT IS. AND BECAUSE EXHIBIT 16 IS LIKE  
12 THAT THICK, I DID THINK IT WAS USEFUL TO AT LEAST GIVE THE JURY  
13 A MORE MANIPULATABLE EXCERPT THAT WAS A DISCRETE DOCUMENT.

14 THE COURT: FOR THE RECORD YOU HAD YOUR HANDS ABOUT  
15 TWO POUNDS (INDICATING) .

16 MS. LIE: YES.

17 THE COURT: SO IT IS PART OF 16 AND I SUPPOSE -- I  
18 THINK COUNSEL HAD DONE THIS WHEN OTHER EXHIBITS HAVE BEEN  
19 INTRODUCED, YOU HAVE INDICATED THIS IS PART OF GOVERNMENT'S  
20 EXHIBIT, FOR EXAMPLE, AND THE JURY CAN CERTAINLY UNDERSTAND.  
21 AND WHEN YOU INTRODUCE THIS, REFERENCE IT, THAT MIGHT BE  
22 HELPFUL TO THEM, IT'S DEFENSE L AND IT'S ALSO CONTAINED IN  
23 GOVERNMENT'S 16, IT'S PAGINATED 131, WHICH I THINK IS ACCURATE  
24 IN 16.

25 SO THERE'S NO OBJECTION TO THIS?

1 MR. FONDO: WELL, IF DEFENSE COUNSEL IS GOING TO PUT  
2 IN THE ENTIRE DOCUMENT, THEN THERE'S NO OBJECTION. IS THAT  
3 YOUR INTENT?

4 MS. LIE: IF THAT'S THE GOVERNMENT'S PREFERENCE THEN  
5 WE CAN DO THAT, ALTHOUGH I DO THINK THAT THE ENTIRE DOCUMENT IS  
6 ELSEWHERE ADMITTED IN THE GOVERNMENT'S EXHIBITS.

7 MR. FONDO: IT PROBABLY IS. AND, AGAIN, I'M NOT --  
8 I HAVE NO PROBLEM WITH THE DOCUMENT, I JUST THINK IF THEY'RE  
9 GOING TO SEE ONE PAGE, THEY SHOULD SEE THE ENTIRE DOCUMENT,  
10 THAT'S ALL.

11 MS. LIE: YOUR HONOR, AT THIS POINT I THINK THAT I  
12 AM GOING TO HAVE TO GO BACK AND CHECK MY NOTES TO SEE WHETHER  
13 THE TOTALITY OF THE LENDER'S CLOSING INSTRUCTIONS WAS ADMITTED.  
14 AND IF IT HAD, I THINK THAT WOULD BE APPROXIMATELY A TEN-PAGE  
15 DOCUMENT.

16 THE COURT: I THINK IT IS A TEN-PAGE DOCUMENT THAT  
17 BEGINS AT 16-121 AND RUNS THROUGH 16-131.

18 MS. LIE: AND I BELIEVE THIS WAS MARKED AT LEAST BY  
19 THE GOVERNMENT AS EXHIBIT 60 OR SOMETHING.

20 MR. FONDO: CLOSE. IT LOOKS LIKE IT'S EXHIBIT 50, A  
21 SEPARATE DOCUMENT, JUST BASED ON THE BATES RANGE BECAUSE  
22 EXHIBIT 50, WHICH WAS ADMITTED ON MARCH 4TH, HAS A BATES RANGE  
23 OF 3142 THROUGH 3152 AND IT SAYS LENDER'S CLOSING INSTRUCTIONS.

24 MS. LIE: SO TO THE EXTENT THAT EXHIBIT 50 HAS BEEN  
25 ADMITTED THEN I'LL WITHDRAW L.

1 THE COURT: OKAY. M IS THE SAN FRANCISCO CUSTODIAN  
2 RECORDS.

3 MR. FONDO: YOUR HONOR, WE WOULD LIKE TO  
4 CROSS-EXAMINE THIS WITNESS.

5 THE COURT: IS THIS WITNESS GOING TO TESTIFY?

6 MS. LIE: YOUR HONOR, WE HAD PROFFERED THE  
7 DECLARATION OF THE CUSTODIAN AS PART OF OUR POSITION THAT THIS  
8 IS A SELF-AUTHENTICATING DOCUMENT AND A SELF-AUTHENTICATING  
9 PUBLIC RECORD.

10 AND I THINK THAT THE RULES PERMIT THE GOVERNMENT, UPON  
11 NOTICE FROM THE DEFENSE, TO SEPARATELY INQUIRE OF THE CUSTODIAN  
12 AND MAKE A DETERMINATION OF WHETHER THERE'S A BASIS TO OPPOSE  
13 ADMISSIBILITY OF THIS AS A SELF-AUTHENTICATING DOCUMENT.

14 BUT HAVING BEEN PROVIDED WITH THIS DOCUMENT AND THE  
15 DEFENSE NOTICE OF ITS INTENTION TO UTILIZE IT PURSUANT TO RULE  
16 902, I THINK IF THE GOVERNMENT HAS SOME BASIS TO QUESTION ITS  
17 AUTHENTICITY AT THIS POINT, THEN I AM JUST NOT HEARING THAT AT  
18 THIS POINT.

19 AND SO WE'RE PROFFERING IT UNDER RULE 902.

20 MR. FONDO: YOUR HONOR, I'M NOT DISPUTING THE  
21 AUTHENTICITY OF IT. AND DEFENSE COUNSEL IS RIGHT, SHE DID  
22 REFER US TO THIS EARLIER AND WE JUST FAILED TO GET BACK TO HER  
23 AND THAT WAS MY OVERSIGHT, AND I APOLOGIZE TO DEFENSE COUNSEL  
24 ABOUT THAT.

25 BUT WE ALSO HAVE A QUESTION AS TO THE RELEVANCY OF IT.

1 MR. FAZIOLI: APART FROM THE AUTHENTICATION, PUTTING  
2 ASIDE AN AUTHENTICATION QUESTION, THERE IS A QUESTION ABOUT  
3 WHAT IS THE PURPOSE OF THIS DOCUMENT AND WHETHER ANY OF THE  
4 WITNESSES THAT THE DEFENSE ARE GOING TO PRESENT WOULD BE  
5 QUALIFIED TO TALK ABOUT THIS PARTICULAR DOCUMENT.

6 SO TO THAT EXTENT WE CANNOT NECESSARILY ADMIT TO ITS  
7 AUTHENTICITY. PERHAPS ONE OF THE DEFENSE WITNESSES HAS SOME  
8 CONNECTION WITH THE SAN FRANCISCO TAX COLLECTOR'S OFFICE AND  
9 CAN EXPLAIN IT AND AS A BUSINESS RECORD MUCH LIKE THE I.R.S.  
10 EXPLAINED THE TAX RETURNS, BUT AT THIS STAGE WE'RE JUST NOT  
11 SURE WHAT THE PURPOSE OF THIS IS AND HOW IT'S RELEVANT.

12 MS. LIE: YOUR HONOR, I THINK THE RELEVANCY CAN BE  
13 ESTABLISHED THROUGH THE TESTIMONY OF THE WITNESSES.

14 THERE'S NOT GOING TO BE ANY TESTIMONY REGARDING ANY  
15 RELATIONSHIP TO THE TAX COLLECTOR'S OFFICE. IF THE GOVERNMENT  
16 WISHES TO CROSS-EXAMINE REGARDING THAT, TO THE EXTENT THAT THEY  
17 BELIEVE THERE IS ONE, THEN THAT'S THEIR OPTION CERTAINLY.

18 MR. FAZIOLI: I THINK A QUESTION THOUGH IS WHAT DOES  
19 THIS -- APART FROM THE FACT THAT IT MAY BE AUTHENTIC, PUTTING  
20 THAT ASIDE, WHAT DOES THE INFORMATION ON THIS DOCUMENT MEAN?

21 THE COURT: IS THIS -- AND I SUPPOSE YOU DON'T HAVE  
22 TO ANSWER THIS QUESTION, MS. LIE, BUT I'M CURIOUS WHETHER OR  
23 NOT IS THIS BEING OFFERED TO ESTABLISH THAT THE STAR PARTNERS  
24 SECURITY, INCORPORATED, WAS A LEGITIMATE BUSINESS OR DID EXIST?

25 MS. LIE: YES.

1 THE COURT: I SEE. IT LOOKS LIKE THAT'S THE  
2 RELEVANCE THAT IT WOULD HAVE TO ESTABLISH THAT THERE WAS A  
3 CONCERN WITH THAT TITLE AT THIS PARTICULAR DATE AND TIME.

4 HAS THERE BEEN EVIDENCE ABOUT THAT, THIS CONCERN ABOUT  
5 STAR PARTNERS SECURITY, INCORPORATED?

6 MS. LIE: I THINK THE EVIDENCE THAT THE GOVERNMENT  
7 HAS INTRODUCED REGARDING THE NATURE OF THE FINANCES IN THE  
8 YEARS PRIOR TO THE FILING OF THE MORTGAGE APPLICATION  
9 ABSOLUTELY IS INTENDED TO CALL INTO QUESTION WHETHER THIS  
10 BUSINESS IS ACTUALLY A LEGITIMATE ENTERPRISE AND WHETHER IT  
11 HAS -- HAD ANY FUNCTION WHATSOEVER.

12 AND SO WE WOULD SUBMIT THE DEFENSE, AS PART OF ITS  
13 REBUTTAL TO THOSE INFERENCES WE BELIEVE WOULD BE PERMITTED TO  
14 TALK ABOUT THE INCEPTION OF THE BUSINESS AND THE INDICIA THAT  
15 IS CONTEMPORANEOUS GENERATED INDICIA, THAT TENDS TO SUGGEST  
16 THAT THIS WAS A BONA FIDE ENTERPRISE, REGARDLESS OF ITS  
17 PARTICULAR FINANCIAL STANDING AT VARIOUS POINTS IN TIME, WHICH  
18 I THINK IS A SEPARATE ISSUE, BUT A RELATED ONE.

19 THE COURT: SO THIS DOCUMENT, IT LOOKS LIKE IT'S A  
20 PHOTOCOPY, IT'S A TAX COLLECTORS TAX DATA SYSTEMS DATED MARCH  
21 5, 2013. I SUPPOSE THAT'S THE DATE THAT IT WAS PREPARED?

22 MS. LIE: THAT WAS THE DATE THAT IT WAS PRODUCED TO  
23 THE DEFENSE, BUT THESE, WHAT I BELIEVE IS THE -- YOU HAVE THE  
24 THIRD PAGE IS THE TAX COLLECTOR'S BUSINESS SYSTEM WHICH  
25 REFLECTS THE START DATE OF THE BUSINESS CERTIFICATION AS WELL

1 AS THE LAST ISSUANCE DATE OF A RENEWAL CERTIFICATE.

2 THE COURT: IT SAYS UNPAID REGISTRATION FEES OR REG  
3 FEES.

4 MS. LIE: THAT WOULD BE THE TERMINATION OF THE  
5 LICENSE IN 2009. AND I THINK THAT SOME OF THE DEFENSE  
6 TESTIMONY MAY SHED LIGHT ON THAT, BUT I THINK THAT THE  
7 EXISTENCE IN 2002 OF THE BUSINESS ENTERPRISE --

8 THE COURT: WELL, WHAT THIS SHOWS IS THAT SAN  
9 FRANCISCO TAX COLLECTORS SYSTEMS CREATED THIS ENTRY, PERHAPS,  
10 FOR TAX COLLECTION PURPOSES.

11 IT DOESN'T SPEAK TO WHETHER OR NOT THIS IS AN ACTUAL  
12 EXISTING CONCERN. IT JUST SPEAKS THAT A RECORD WAS OPENED.

13 MS. LIE: I UNDERSTAND THAT. AND, ONCE AGAIN, I DO  
14 BELIEVE THAT IT IS NOT A THRESHOLD QUESTION REQUIREMENT FOR  
15 ADMISSIBILITY THAT THE DOCUMENT EXCULPATE THE WHOLE OF THE  
16 DEFENSE THEORY OR TESTIMONY.

17 I THINK THAT IN CONJUNCTION WITH TESTIMONY THAT WILL BE  
18 INTRODUCED LATER, I THINK THAT THIS IS GOING TO BE RELEVANT AND  
19 ADMISSIBLE. I'M HAPPY TO HAVE THE COURT RESERVE RULING IF IT  
20 FEELS IT WAS NECESSARY. IT WAS NOT THE DEFENSE MOTION TO ADMIT  
21 THIS AT AN EARLY STAGE INDEPENDENT OF WITNESS TESTIMONY.

22 THE COURT: I SEE. SO YOU'RE GOING TO LAY A  
23 FOUNDATION?

24 MS. LIE: YES.

25 MR. FONDO: THAT'S FINE.

1 THE COURT: SO SUBJECT TO A FOUNDATION IT WOULD  
2 OTHERWISE BE ADMISSIBLE.

3 OKAY. N.

4 MR. FONDO: YOUR HONOR, WE WOULD ALSO OBJECT TO N ON  
5 MULTIPLE GROUNDS. IT'S HEARSAY, RELEVANCE. IT LOOKS LIKE  
6 MR. PAIGE OR MR. PAIGE'S BIRTHDAY PARTY. IT'S DATED 2007 AND  
7 WELL BEYOND THE INCIDENTS RELEVANT IN THIS CASE.

8 SO, YOUR HONOR, WE WOULD OBJECT.

9 MS. LIE: YOUR HONOR, FIRST OF ALL --

10 THE COURT: EXCUSE ME.

11 MS. LIE: -- IT IS NOT HEARSAY BECAUSE IT CONTAINS  
12 NO FACTUAL ASSERTIONS OTHER THAN THE DATE OF BIRTH OF  
13 MR. PAIGE, AND WE WOULD BE HAPPY TO REDACT THAT IF THE  
14 GOVERNMENT FEELS -- BUT I'M OPEN TO THE POSSIBILITY THAT AN  
15 ADEQUATE FOUNDATION MAY NOT BE LAID FOR THIS OR THIS THREADS  
16 INTO AREAS THAT ARE THE SUBJECT OF THE, SUBJECT OF THE COURT'S  
17 IN LIMINE MOTION. HOWEVER, WE PRODUCED THIS OUT OF AN  
18 ABUNDANCE OF CAUTION THAT THE GOVERNMENT DECIDES TO GO THERE.

19 THE COURT: SO THIS IS SUBJECT TO FOUNDATION.

20 MR. FONDO: THAT'S FINE. EXHIBIT O THE GOVERNMENT  
21 HAS NO OBJECTION TO.

22 THE ONLY THING I MIGHT ASK IS THAT I THINK THIS IS ANOTHER  
23 EXAMPLE OF A DOCUMENT THAT WAS WITHIN A PRIOR GOVERNMENT  
24 EXHIBIT. AND SO FOR JUST LACK OF CONFUSION SAKE IT MIGHT MAKE  
25 MORE SENSE TO HAVE THE EXHIBIT REFERENCED, YOU KNOW, PULL IT

1 FROM OUR EXHIBIT. I'M ASSUMING THIS IS EXHIBIT 16, IS IT?

2 MS. LIE: THIS WAS --

3 MR. FONDO: EXHIBIT 58.

4 MS. LIE: -- FROM EXHIBIT 58.

5 MR. FONDO: YEAH. SO THAT WOULD BE MY ONLY COMMENT,  
6 YOUR HONOR.

7 THE COURT: ARE YOU ABLE TO DO THAT, MS. LIE?

8 MS. LIE: YOUR HONOR, I CAN. IT'S GOING TO TAKE ME  
9 A LITTLE TIME TO RECOVER THE PAGE NUMBERINGS FROM MY NOT  
10 READILY DECIPHERABLE NOTES, BUT I CAN CERTAINLY DO THAT.

11 THE COURT: OKAY.

12 MS. LIE: CAN WE RETURN TO EXHIBIT L? I WANTED TO  
13 MAKE ONE CORRECTION FOR THE RECORD.

14 THE COURT: YES.

15 MS. LIE: YOUR HONOR, I BELIEVE EXHIBIT L, THE  
16 TOTALITY OF THE CLOSING INSTRUCTIONS AS IT WAS DISCUSSED WITH  
17 THE WITNESS ANCIETE HAD BEEN REFERENCED AS EXHIBIT 66, AND I  
18 THINK AT THAT POINT I MOVED TO ADMIT GOVERNMENT'S EXHIBIT 66  
19 AND THE GOVERNMENT HAD NO OBJECTION AT THAT POINT.

20 SO FOR THAT PURPOSE, IF I'M CORRECT ABOUT THAT, AND I'LL  
21 STAND CORRECTED BY GOVERNMENT'S COUNSEL, IF 66 HAS BEEN  
22 ADMITTED, THEN I WOULD WITHDRAW L, DOUBLE E OR TRIPLE E  
23 BASICALLY.

24 MR. FONDO: SO IT APPEARS TO BE -- I'M NOT SURE  
25 WHETHER IT'S THE SAME DOCUMENT. IT APPEARS TO BE. IT APPEARS



1 TO BE. BECAUSE IT'S A --

2 MS. LIE: IT WAS DISCUSSED WITH THE WITNESS.

3 THE COURT: ALL RIGHT. IF IT'S 66, YOU'RE  
4 WITHDRAWING YOUR L.

5 MS. LIE: YES, SUBJECT TO CONFIRMATION THAT  
6 EXHIBIT 66 WAS ADMITTED. I BELIEVE IT WAS.

7 THE COURT: OKAY. P IS A FAX COVER SHEET.

8 MS. LIE: YES. AND THIS WAS FROM EXHIBIT 58, WHICH  
9 WAS ADMITTED INTO EVIDENCE AND IT'S AT PAGE 210.

10 MR. FONDO: NO OBJECTION, YOUR HONOR.

11 THE COURT: OKAY. Q IS ANOTHER PHOTOGRAPH.

12 MR. FAZIOLI: THE SAME OBJECTION, YOUR HONOR. IT'S  
13 UNCLEAR WHAT THE RELEVANCE OF A FAMILY PHOTO WOULD BE. IT  
14 WOULD BE PREJUDICIAL.

15 AGAIN, AS A GENERAL POINT, OUR CASE IS TRIED TO BE LIMITED  
16 TO THE TIMEFRAME -- I DON'T EVEN KNOW WHAT DATE THIS PICTURE  
17 IS, BUT OUR CASE WAS LIMITED TO THE TIMEFRAME OF THE EVENTS AT  
18 ISSUE OF THIS LOAN.

19 THE COURT: AND IS THIS MS. MYRA HOLMES IN THIS  
20 PHOTOGRAPH?

21 MS. LIE: I DON'T BELIEVE SO, ALTHOUGH THERE'S A  
22 FACE THAT IS HALF CUT OFF ON ONE SIDE OF IT. I DON'T BELIEVE  
23 SO AND THAT WASN'T THE PURPOSE FOR WHICH I WAS -- IT WAS  
24 ANTICIPATED.

25 I THINK MUCH LIKE N, I THINK IT'S SUBJECT TO WHERE THE

1 GOVERNMENT THINKS THAT WE HAVE OPENED DOORS AND WHAT THEY  
2 CHOOSE TO INQUIRE REGARDING.

3 SO I WOULD BE HAPPY TO HAVE THE COURT RESERVE RULING  
4 SUBJECT TO AN APPROPRIATE FOUNDATION.

5 I DO QUESTION, HOWEVER, THE GOVERNMENT'S ASSERTION THAT  
6 THE FAMILY PHOTO IS SOMEWHAT PREJUDICIAL.

7 THE COURT: WELL, THAT WAS ONE OF MY QUESTIONS, IF  
8 THE DEFENDANT IS IN IT OR NOT, MAYBE THAT DOESN'T MAKE A  
9 DIFFERENCE, BUT MAYBE IT WOULD.

10 MS. LIE: I DON'T THINK IT MAKES A DIFFERENCE TO THE  
11 PREJUDICE ARGUMENT. YOU KNOW, I THINK THE ISSUE, I THINK THE  
12 ISSUE REALLY IS GOING TO COME DOWN TO WHAT THE GOVERNMENT  
13 THINKS THAT WE HAVE OPENED THE DOOR TO ULTIMATELY AND, AGAIN,  
14 INCLUDED OUT OF AN ABUNDANCE OF CAUTION IN THE EVENT THAT THERE  
15 IS SOME DISAGREEMENT FURTHER DOWN THE LINE ABOUT WHETHER  
16 MR. PAIGE -- AND I WILL NOTE THAT THIS WAS, I BELIEVE, TAKEN AT  
17 THE 80TH BIRTHDAY --

18 THE DEFENDANT: YES.

19 MS. LIE: -- THAT IS REFERENCED IN EXHIBIT N. AND  
20 SO WHETHER THE 80TH BIRTHDAY AND MR. PAIGE AND HIS  
21 PARTICIPATION IN THAT EVENT BECOMES RELEVANT, THEN I THINK  
22 THAT --

23 THE COURT: IT SOUNDS LIKE IT'S TOUCHING ON THE  
24 COMPETENCY OF MR. PAIGE AS OPPOSED TO THE ISSUE OF WHETHER OR  
25 NOT MR. PAIGE WAS YOUR CLIENT'S FATHER OR NOT.

1 MS. LIE: EXACTLY.

2 THE COURT: IT SOUNDS LIKE THIS REALLY IS TOUCHING  
3 ON WHETHER OR NOT MR. PAIGE'S COMPETENCY, WHICH HAS  
4 PARTICULARLY BEEN THE ISSUE THROUGHOUT THIS CASE, IS DEMENTIA  
5 OR NOT. AND THE COURT HAS MADE A RULING ON THAT.

6 THESE ARE YOUR EXHIBITS?

7 MS. LIE: THEY ARE OUR EXHIBITS. THEY'RE OVERLY  
8 INCLUSIVE ARGUABLY, AND AS I INDICATED BEFORE AS TO N AND AGAIN  
9 NOW AS TO Q, I THINK THAT THE ISSUE OF WHETHER WE ULTIMATELY  
10 OFFER THESE MAY VERY WELL BE CONTINGENT UPON WHAT ARGUMENTS THE  
11 GOVERNMENT MAKES IN THE COURSE OF THE DEFENSE CASE ABOUT -- TO  
12 WHAT WE HAVE OPENED THE DOOR.

13 THE COURT: OKAY. Q IS -- IT'S R, PARDON ME. R.  
14 WHAT RELEVANCE IS A PHOTOGRAPH OF MR. PAIGE WITH MAGIC  
15 JOHNSON TO JURORS WHO MIGHT BE GOLDEN STATE WARRIOR FANS?

16 MS. LIE: YOUR HONOR, I'M NOT SURE THERE NECESSARILY  
17 WILL BE, BUT I BELIEVE THAT ONE OF THE WITNESSES MAY LAY A  
18 FOUNDATION FOR THIS ON THE GROUNDS THAT MR. PAIGE'S  
19 PARTICIPATION IN AND THE NATURE OF HIS PARTICIPATION IN THE  
20 OPERATION OF THE BUSINESS AND HIS BUSINESS AND HOW THAT  
21 AFFECTED HIS INTERACTIONS WITH HIS CHILDREN AND SPECIFICALLY  
22 MS. HOLMES. I THINK THIS MAY BECOME RELEVANT TO CORROBORATE  
23 THAT WITNESS'S TESTIMONY.

24 I THINK, AGAIN, IT'S SUBJECT TO HOW THE WITNESS ANSWERS  
25 THOSE QUESTIONS.

1 THE COURT: ALL RIGHT.

2 MS. LIE: AND HOW THAT WITNESS IS SUBJECT TO  
3 CROSS-EXAMINATION LATER.

4 THE COURT: ALL RIGHT. S IS ANOTHER PHOTOGRAPH.

5 MS. LIE: AGAIN, YOUR HONOR, WE WOULD AGREE THAT NO  
6 FOUNDATION HAS BEEN LAID AT THIS POINT.

7 MR. FAZIOLI: IS THIS MR. PAIGE IN THIS PICTURE?

8 MS. LIE: IT IS.

9 MR. FAZIOLI: WE WOULD -- IT'S A SIMILAR OBJECTION.  
10 THIS IS ACTUALLY IN A WAY IT COULD BE CONSTRUED AS HEARSAY TO  
11 SOME EXTENT AND TO THE EXTENT THAT THERE'S -- THERE'S A COUPLE  
12 OF CERTIFICATES IN THIS PICTURE THAT ARE ARGUABLY THE  
13 PRESENTATION OF THE PICTURE WITH THE INFORMATION THAT IS ON  
14 THOSE CERTIFICATES IS ARGUABLY HEARSAY, THE CERTIFICATES  
15 THEMSELVES ARE HEARSAY, AND MR. PAIGE HOLDING THEM.

16 AGAIN, THERE'S A NUMBER OF OBJECTIONS TO IT, BUT IT SOUNDS  
17 LIKE THIS IS AN ISSUE THAT WE'RE GOING TO APPROACH DOWN THE  
18 LINE.

19 MR. FONDO: AND OBVIOUSLY THE DATE OF THE PICTURE.  
20 IT'S UNCLEAR WHEN THIS WAS.

21 THE COURT: THESE ARE ALL FOUNDATIONAL ISSUES THAT  
22 ATTACH.

23 MS. LIE: THEY ARE FOUNDATIONAL ISSUES. AND  
24 ALTHOUGH I WOULD NOTE THAT THERE'S NO DATE ON THE PICTURES, I  
25 WOULD CONCEDE THAT THE DATE ON THE CERTIFICATES IS AFTER THE

1 OFFENSE CONDUCT IN THIS CASE. I WOULD DISPUTE THAT THE  
2 CERTIFICATES ARE HEARSAY. THEY'RE ESSENTIALLY NON-HEARSAY  
3 ACTS.

4 TO THE EXTENT THAT THE GOVERNMENT IS CONCERNED THAT THERE  
5 MIGHT BE INFERENCES DRAWN ABOUT THE JUDGMENT OF THE AWARDING  
6 AUTHORITIES, THEN A LIMITING INSTRUCTION IF THE PHOTOGRAPH  
7 BECOMES ADMISSIBLE, I THINK A LIMITING INSTRUCTION CAN  
8 CERTAINLY CURE THOSE ISSUES.

9 BUT I DO THINK THAT THE RELATIONSHIP BETWEEN MR. PAIGE AND  
10 HIS DAUGHTERS IS ABSOLUTELY GOING TO BE FRONT AND CENTER IN  
11 THE -- BOTH THE DIRECT AND CROSS-EXAMINATIONS OF THE WITNESSES  
12 AND HOW THAT MAY HAVE INFLUENCED THE CONDUCT OF PEOPLE  
13 INVOLVED, I THINK THAT THIS PHOTOGRAPH, IRRESPECTIVE OF THE  
14 DATE, TENDS TO CORROBORATE THE TESTIMONY OF SOME OF THOSE  
15 WITNESSES OR WILL TEND TO CORROBORATE THE TESTIMONY OF SOME OF  
16 THOSE WITNESSES.

17 THE COURT: ALL RIGHT. WE'LL WAIT AND SEE ON THIS.

18 U IS OFFICE OF THE PERSONNEL MANAGEMENT.

19 MS. LIE: AGAIN, I WOULD SUBMIT THAT AT THIS POINT  
20 THE FOUNDATIONAL ISSUES WILL BE ADDRESSED DURING TESTIMONY.

21 MR. FONDO: AT THIS TIME WE WOULD OBJECT, YOUR  
22 HONOR. WE'LL JUST WAIT AND SEE.

23 THE COURT: OKAY. DOUBLE B.

24 MR. FONDO: I THINK THIS WAS PREVIOUSLY SUBMITTED;  
25 CORRECT?

1 THE COURT: I THINK IT WAS.

2 MS. LIE: YES, AS WAS TRIPLE E.

3 MR. FONDO: I DON'T THINK TRIPLE E WAS ADMITTED. I  
4 DON'T HAVE AN OBJECTION TO IT, BUT I DON'T THINK IT WAS  
5 ADMITTED.

6 THE COURT: IS THIS PART OF 58?

7 MS. LIE: YES, 58-72 TO 58-74.

8 MR. FONDO: SO COUNSEL IS CORRECT. IT WAS A  
9 SEPARATE EXHIBIT.

10 MS. LIE: I THINK IT HAD BEEN ADMITTED AS A SEPARATE  
11 EXHIBIT, BUT I'LL DEFER TO THE COURT.

12 MR. FAZIOLI: IN ANY EVENT IT'S BIG BROTHER  
13 EXHIBIT 58. THE LARGER EXHIBIT SEEMS TO HAVE BEEN ADMITTED.

14 THE COURT: ALL RIGHT. WELL, I THINK WE HAVE  
15 EXHAUSTED OUR DISCUSSION ABOUT DEFENDANT'S EXHIBIT LIST.

16 ANYTHING ELSE WE SHOULD TAKE UP?

17 MR. FAZIOLI: I GUESS MY UNDERSTANDING IS THAT JUST  
18 TO CONFIRM THAT THE DEFENDANT WILL BE TESTIFYING THIS  
19 AFTERNOON?

20 MS. GARRIDO: YES.

21 MR. FAZIOLI: AND DOES THE DEFENSE HAVE ANY IDEA OF  
22 HOW LONG THAT DIRECT EXAMINATION WILL TAKE BECAUSE IT COULD  
23 INFORM JUST WHETHER THE ISSUE SHOULD BE FLUSHED OUT BEFORE OR  
24 AFTERWARDS.

25 MS. GARRIDO: I'M VERY BAD AT ESTIMATING. I CAN'T

1 GIVE AN ACCURATE ESTIMATE BUT --

2 THE COURT: OKAY.

3 MR. FAZIOLI: OKAY.

4 MS. LIE: I THINK IT'S LIKELY THAT CROSS-EXAMINATION  
5 WILL BEGIN TODAY.

6 MS. GARRIDO: YES.

7 THE COURT: AND IS MS. HOLMES YOUR FIRST WITNESS  
8 THEN?

9 MS. GARRIDO: YES.

10 THE COURT: OKAY. ALL RIGHT. ANYTHING FURTHER?

11 MR. FAZIOLI: NO, YOUR HONOR.

12 MR. FONDO: NO, YOUR HONOR.

13 THE COURT: JURY INSTRUCTIONS. I THINK I RECEIVED  
14 THE DEFENSE JURY INSTRUCTIONS, AND THESE WERE -- I THINK THERE  
15 WERE THREE OF THEM PERHAPS. I DON'T HAVE THEM AT MY  
16 FINGERTIPS. THESE WERE IN ADDITION TO THE STANDARD JURY  
17 INSTRUCTIONS, THE MODEL JURY INSTRUCTIONS.

18 MS. LIE: YOUR HONOR, THAT'S CORRECT. THE COURT  
19 WILL RECALL THAT IN A PREVIOUS UNRELATED CASE I HAD PROFFERED  
20 THE DEVITT AND BLACKMAR IN LIEU OF A NUMBER OF THE PATTERN JURY  
21 INSTRUCTIONS.

22 IN VIEW OF THE COURT'S RULING IN THAT CASE, WE CHOSE NOT  
23 TO PROFFER THOSE SAME DEVITT AND BLACKMAR INSTRUCTIONS HERE.

24 HOWEVER, AS IN THAT PREVIOUS CASE, I WOULD BE REQUESTING  
25 THE SAME MODIFICATION TO THE PRESUMPTION PATTERN INSTRUCTION

1        THAT THE COURT AGREED TO ADMINISTER IN THE GAMA CASE, AND I DID  
2        NOT BRING WHAT THE COURT READ IN THAT CASE BUT I CAN DO SO  
3        DURING THE RECESS.

4                THE COURT:    I WANTED TO GET A TIME WHEN WE SHOULD  
5        SIT DOWN AND GO OVER THOSE INSTRUCTIONS.

6                MR. FONDO:   WE WILL TRY TO DO OURS TONIGHT.   DO YOU  
7        WANT SOME THAT ARE NOT PART OF THE MODEL NINTH CIRCUIT OR DO  
8        YOU WANT KIND OF ALL OF THE ONES WE WANT INCLUDING KIND OF  
9        INTRODUCTORY?

10               THE COURT:   I THINK WHAT I'D LIKE COUNSEL TO DO IS  
11        TO PREPARE INCLUDING THE MODEL TEMPLATES.   AND I HOPE IT'S NOT  
12        GOING TO TASK YOU GREATLY TO DO THAT.   AND I DO THAT, TOO, SO  
13        WE CAN ORGANIZE BETTER AS TO THE READING AND THE ORDER THAT  
14        THEY WILL BE READ.

15               BUT, OF COURSE, THE SPECIFIC INSTRUCTIONS AS TO THE  
16        OFFENSES, AND I'M EAGER TO SEE IF YOU HAVE ANY THAT ARE OUTSIDE  
17        OF THE MODEL INSTRUCTION.

18               MR. FONDO:   YES, YOUR HONOR.   THANK YOU.

19               THE COURT:   OKAY.   WE'LL SEE YOU AT 1:00 O'CLOCK.

20               MR. FONDO:   THANK YOU, YOUR HONOR.

21               THE COURT:   THANK YOU.

22               (LUNCH RECESS TAKEN.)

23                                **AFTERNOON SESSION**

24               (JURY IN AT 1:08 P.M.)

25               THE COURT:   WE'RE BACK ON THE RECORD IN UNITED



1 STATES VERSUS HOLMES. ALL PARTIES PREVIOUSLY PRESENT ARE  
2 PRESENT ONCE AGAIN WITH OUR JURY AND ALTERNATES.

3 THANK YOU, LADIES AND GENTLEMEN, FOR YOUR PATIENCE. WE  
4 APPRECIATE THAT.

5 I THINK WE'RE READY TO PROCEED.

6 LET ME ASK THE GOVERNMENT, FIRST OF ALL, ANY ADDITIONAL  
7 WITNESSES OR EVIDENCE BY THE GOVERNMENT AT THIS TIME?

8 MR. FAZIOLI: THE GOVERNMENT RESTS, YOUR HONOR.

9 THE COURT: THE GOVERNMENT RESTS.

10 I'LL TURN TO THE DEFENSE. DOES THE DEFENSE HAVE A WITNESS  
11 IT WISHES TO CALL?

12 MS. GARRIDO: YES, YOUR HONOR. THE DEFENSE CALLS  
13 MYRA HOLMES.

14 THE COURT: ALL RIGHT. MS. HOLMES.

15 MADAM COURT REPORTER: RAISE YOUR RIGHT HAND.

16 **(DEFENDANT WITNESS, MYRA HOLMES, WAS SWORN.)**

17 THE WITNESS: I AFFIRM.

18 THE COURT: PLEASE HAVE A SEAT HERE, MS. HOLMES.  
19 ADJUST THE CHAIR AND MICROPHONE AS YOU NEED. I'LL ENCOURAGE  
20 YOU TO TESTIFY DIRECTLY INTO THE MICROPHONE AND IF YOU WOULD  
21 PULL IT DOWN TOWARDS YOU.

22 AND WHEN YOU ARE COMFORTABLE, WOULD YOU PLEASE STATE YOUR  
23 NAME AND THEN SPELL IT, PLEASE.

24 THE WITNESS: MYRA ANN HOLMES. M-Y-R-A, A-N-N,  
25 H-O-L-M-E-S.

1 THE COURT: COUNSEL.

2 **DIRECT EXAMINATION**

3 BY MS. GARRIDO:

4 Q. GOOD AFTERNOON, MS. HOLMES.

5 A. HELLO.

6 Q. HOW OLD ARE YOU?

7 A. FIFTY-FIVE.

8 Q. AND WHERE WERE YOU BORN?

9 A. FORT MEADE, MARYLAND.

10 Q. AND WHERE DID YOU GROW UP?

11 A. I GREW UP ALL OVER THE UNITED STATES. MY FATHER WAS IN  
12 THE MILITARY.

13 Q. AND WHO ARE YOUR PARENTS?

14 A. LEONARD AND CARRIE PAIGE.

15 Q. AND WHERE DID YOUR FATHER GROW UP?

16 A. MY FATHER GREW UP IN EDWARDS, MISSISSIPPI.

17 Q. AND WHAT WAS HIS OCCUPATION WHILE YOU WERE GROWING UP?

18 A. HE WAS ENLISTED NCR MILITARY ARMY.

19 Q. AND WHAT INFLUENCE DID YOUR FATHER HAVE ON YOU GROWING UP?

20 A. HE HAD A GREAT INFLUENCE ON ME.

21 Q. DID THAT INFLUENCE CONTINUE THROUGHOUT YOUR LIFE?

22 A. YES, YES, MA'AM.

23 Q. AND WHO ELSE IS IN YOUR FAMILY? DO YOU HAVE ANY SIBLINGS?

24 A. YES, I HAVE THREE OTHER SIBLINGS.

25 Q. AND WHO ARE THEY?

HOLMES DIRECT

1 A. MY OLDEST SISTER IS GAINELL, AND THEN I HAVE A SISTER  
2 JACQUIE, AND ALSO A SISTER MARILYNN.

3 Q. AND IS YOUR FAMILY CLOSE?

4 A. VERY CLOSE.

5 Q. AS THE CHILD OF A MILITARY MAN, WERE YOU TAUGHT TO BE  
6 OBEDIENT TO YOUR FATHER?

7 A. YES.

8 Q. AND WAS HE STRICT?

9 A. YES.

10 Q. AND DID HE HAVE A DOMINANCE IN THE FAMILY?

11 A. VERY MUCH SO.

12 Q. AND DID YOU QUESTION YOUR FATHER'S DECISIONS?

13 A. NO.

14 Q. IN YOUR FAMILY DID -- REGARDING FINANCIAL AFFAIRS, DID YOU  
15 ENTER INTO WRITTEN CONTRACTS AMONG EACH OTHER?

16 A. WHAT DO YOU MEAN BY "REGULAR CONTRACTS."

17 MR. FAZIOLI: YOUR HONOR, SOME OF THESE QUESTIONS  
18 ARE FAIRLY LEADING FOR DIRECT EXAMINATION. SO WE WOULD OBJECT.

19 THE COURT: I'LL SUSTAIN THE LEADING OBJECTION. YOU  
20 CAN ASK YOUR NEXT QUESTION. PERHAPS YOU WANT TO REPHRASE YOUR  
21 QUESTION.

22 BY MS. GARRIDO:

23 Q. DID YOU ENTER INTO ANY CONTRACTS WITH YOUR FATHER AND  
24 SPECIFICALLY REGARDING ANY FINANCIAL AFFAIR?

25 A. YES, MY HOME.

HOLMES DIRECT

1 Q. OKAY.

2 A. AND HE WOULD HELP OUT WITH OTHER CONTRACTS ALONG THE WAY  
3 OR I WOULD ASK HIS OPINION.

4 Q. OKAY. DID YOU, REGARDING YOUR HOME, DID YOU AND YOUR  
5 FATHER ACTUALLY WRITE OUT A CONTRACT AND SIGN IT?

6 A. NO, MA'AM.

7 Q. OKAY.

8 A. NO.

9 Q. AND SO IF YOU HAD AN AGREEMENT WITH YOUR FATHER, WOULD IT  
10 BE WRITTEN OR ORAL?

11 A. ORAL.

12 Q. WAS THAT THE SAME WITH ALL OF YOUR FAMILY MEMBERS?

13 A. AS FAR AS I KNOW.

14 Q. AND IF YOU EVER LENT ANYONE IN YOUR FAMILY MONEY OR THEY  
15 LENT YOU MONEY, WOULD YOU GIVE RECEIPTS?

16 MR. FAZIOLI: OBJECTION, LEADING.

17 THE COURT: WHY DON'T YOU REPHRASE THE QUESTION.

18 BY MS. GARRIDO:

19 Q. HOW WOULD YOU KEEP TRACK OF MONEY YOU LENT TO FAMILY  
20 MEMBERS?

21 A. WE JUST SHARED AMONG EACH OTHER. IF ANYONE HAD ANY, WE  
22 HELPED OUT WITH EACH OTHER.

23 Q. AND WOULD YOU KEEP RECEIPTS OF THAT?

24 A. NO, NOT NECESSARILY.

25 Q. I'D LIKE TO TALK TO YOU ABOUT YOUR WORK HISTORY AND PAIGES

HOLMES DIRECT  
1 SECURITY SERVICE.

2 DID YOUR FATHER HAVE A COMPANY?

3 A. YES, HE DID.

4 Q. AND WHEN DID HE ESTABLISH THAT?

5 A. I BELIEVE AROUND 1986 OR '87.

6 Q. AND WHAT WAS THAT COMPANY CALLED?

7 A. PAIGES SECURITY SERVICES, INC.

8 Q. AND HOW DID THAT COMPANY START?

9 A. IT STARTED WITH MY FATHER ACTUALLY BEING A ONE PERSON --

10 ONE EMPLOYEE SECURITY OFFICER.

11 Q. AND AT THE HEIGHT OF THE COMPANY'S -- AT THE HEIGHT OF THE  
12 COMPANY, HOW MANY EMPLOYEES DID IT HAVE?

13 A. I WOULD GUESS AT LEAST 1700 TO 2000 AND 2500.

14 Q. WHAT KIND OF SERVICES DID PAIGES PROVIDE?

15 A. THEY WERE A PRIVATE PATROL AND GUARD SERVICE.

16 Q. AND DID YOU WORK THERE FOR SOME TIME?

17 A. YES, I DID.

18 Q. DID THE SECURITY SERVICE HAVE A CONTRACT TO PROVIDE  
19 SECURITY EVEN FOR THIS BUILDING?

20 A. YES, IT DID.

21 Q. AND WHAT TYPES OF CONTRACTS DID -- OR WHAT TYPES OF EVENTS  
22 DID PAIGES PROVIDE SECURITY FOR?

23 A. EVENTS? HE DID THE U.S. OPEN, AT & T GOLF TOURNAMENTS,  
24 BLUES FESTIVAL MONTEREY, N.B.A. PLAYOFFS AND SEVERAL EVENTS  
25 AROUND CALIFORNIA, BOTH SOUTHERN AND NORTHERN.

HOLMES DIRECT

1 Q. I'D ASK YOU TO TAKE A LOOK AT THE BLUE BINDER IN FRONT OF  
2 YOU AND TURN TO EXHIBIT K. DO YOU RECOGNIZE THAT DOCUMENT?

3 A. YES, I DO.

4 Q. AND WHAT IS THIS?

5 A. THIS IS A PAIGE BROCHURE REGARDING PAIGES SECURITY  
6 BUSINESS.

7 Q. AND DO YOU KNOW ABOUT ROUGHLY WHEN THAT WAS GENERATED?

8 A. NO, I DO NOT RECALL.

9 Q. WHAT YEAR DID YOU WORK FOR PAIGES?

10 A. I WORKED PART-TIME PROBABLY APPROXIMATELY ABOUT IN THE  
11 EARLY '90S LATE '80S.

12 Q. OKAY. WHEN DID YOU START WORKING THERE FULL TIME?

13 A. FULL TIME IN THE END OF 1997 GOING INTO '98.

14 Q. AND UNTIL WHAT YEAR DID YOU CONTINUE TO WORK THERE FULL  
15 TIME?

16 A. 2002.

17 Q. WHAT WAS YOUR WORK HISTORY PRIOR TO WORKING FOR YOUR  
18 FATHER?

19 A. I WORKED FOR THE DEPARTMENT OF THE ARMY.

20 Q. HOW LONG DID YOU WORK THERE?

21 A. APPROXIMATELY 24 YEARS.

22 Q. AND WHAT WERE YOUR DUTIES THERE?

23 A. I STARTED OUT AS A GS0 AS A CLERK TYPIST AND MOVED UP AS A  
24 SECRETARY. I MOVED TO TRANSPORTATION MANAGING CARGO WORLDWIDE  
25 FOR OCEAN CARGO.

HOLMES DIRECT

1 Q. AND DID YOU HAVE A PRIVATE PATROL LICENSE?

2 A. YES, I DID.

3 Q. AND WHAT DOES THAT MEAN?

4 A. A PRIVATE PATROL LICENSE IS A CERTIFICATION TO BE A  
5 QUALIFIED MANAGER FOR A SECURITY COMPANY.

6 Q. AND WHEN DID YOU RECEIVE THAT LICENSE?

7 A. 1999.

8 Q. AND WHAT DID YOU HAVE TO DO IN ORDER TO GET THAT LICENSE?

9 A. I CERTIFIED WITH THE STATE OF CALIFORNIA AND WAS TESTED.

10 Q. DID YOU START YOUR OWN COMPANY AT SOME POINT?

11 A. YES, I DID.

12 Q. AND WHAT WAS THAT COMPANY?

13 A. STAR PARTNERS. IT ORIGINALLY WAS PARTNERS SECURITY  
14 SERVICES AND THEN AMENDED TO STAR PARTNERS SECURITY SERVICES.

15 Q. DID YOU REGISTER YOUR BUSINESS ANYWHERE?

16 A. YES, I DID.

17 Q. AND SPECIFICALLY TURNING TO DEFENSE EXHIBIT M. IF YOU CAN  
18 TAKE A LOOK SPECIFICALLY AT THE THIRD PAGE.

19 DOES THIS APPEAR TO BE A RECORD OF YOUR BUSINESS  
20 ADMINISTRATION?

21 A. YES, MA'AM.

22 Q. AND DOES IT ACCURATELY SHOW THE DATES THAT YOUR BUSINESS  
23 WAS REGISTERED IN SAN FRANCISCO?

24 A. YES, MA'AM.

25 Q. AND THAT WAS SPECIFICALLY FROM SEPTEMBER 18TH, 2002 TO

HOLMES DIRECT  
1 FEBRUARY 18TH, 2009?

2 A. YES, MA'AM.

3 MS. GARRIDO: AT THIS TIME I WOULD LIKE TO MOVE  
4 DEFENSE EXHIBIT M INTO EVIDENCE.

5 MR. FAZIOLI: NO OBJECTION.

6 THE COURT: IT'S RECEIVED.

7 (DEFENDANT'S EXHIBIT M WAS RECEIVED IN EVIDENCE.)

8 BY MS. GARRIDO:

9 Q. WHEN YOU BEGAN WORKING AT PAIGES SECURITY SERVICE, WHAT  
10 WAS YOUR POSITION ORIGINALLY?

11 A. I WAS -- ORIGINALLY STARTED OFF AS AN SPECIAL EVENTS  
12 OFFICER PART-TIME, AND THEN I MOVED AS A CONTRACTOR FOR THE  
13 VETERAN'S ADMINISTRATION ACROSS NORTHERN CALIFORNIA, AND THEN  
14 TO THE DIRECTOR OF NORTHERN CALIFORNIA, AND THEN TO VICE  
15 PRESIDENT OF OPERATIONS.

16 Q. AND WAS THAT THE HIGHEST POSITION THAT YOU HELD?

17 A. YES, MA'AM.

18 Q. AND ABOUT HOW LONG DID YOU HOLD THAT POSITION?

19 A. FROM APPROXIMATELY 1998 TO 2002.

20 Q. WHAT WAS YOUR SALARY?

21 A. I BELIEVE FROM MY RECOLLECTION IT STARTED AT 60,000 AND  
22 THEN IT WAS REDUCED.

23 Q. DO YOU KNOW APPROXIMATELY WHEN IT WAS REDUCED?

24 A. I WOULD SAY SOME TIME IN THE TIMEFRAME OF 2001 TO MY  
25 RECOLLECTION.



HOLMES DIRECT

1 Q. WAS YOUR SALARY EQUIVALENT TO OTHER PEOPLE'S SALARY WITHIN  
2 THE COMPANY THAT WERE IN THE SAME POSITION AS YOU?

3 A. NO, NO.

4 Q. AND WAS IT LESS OR MORE?

5 A. IT WAS LESS.

6 Q. WERE YOU REQUIRED TO CONDUCT SOME WORK OUT OF YOUR HOME?

7 A. YES.

8 Q. AND WERE YOU PAID A HOUSING ALLOWANCE FOR THIS?

9 MR. FAZIOLI: OBJECTION, LEADING.

10 THE COURT: SUSTAINED.

11 BY MS. GARRIDO:

12 Q. WERE YOU PAID ANYTHING FOR THIS?

13 A. YES.

14 Q. FOR CONDUCTING WORK OUT OF YOUR HOME BEYOND YOUR SALARY?

15 A. NO. IT WAS WITHIN MY SALARY.

16 Q. OKAY.

17 A. INCLUDED.

18 Q. WHY WAS YOUR SALARY LESS THAN THAT OF OTHER EMPLOYEES?

19 A. BECAUSE OUR NEGOTIATION WITH MY FATHER WAS THE ASSISTANCE  
20 WITH MY HOME AND THE TYPE OF WORK I DID AND ALLOWING OTHER  
21 EMPLOYEES TO DO TRAINING OUT OF MY HOME.

22 Q. OKAY. DID YOU MIND THAT YOUR FATHER PAID YOU LESS THAN  
23 OTHER EMPLOYEES?

24 A. NO.

25 Q. AND WHY NOT?

HOLMES DIRECT

1 A. BECAUSE OF OUR RELATIONSHIP.

2 Q. YOUR FAMILIAL RELATIONSHIP?

3 A. YES, MA'AM.

4 Q. AND DID YOUR FATHER COMPENSATE IN SOME OTHER WAY FOR  
5 PAYING YOU LESS SALARY?

6 A. YES.

7 MR. FAZIOLI: OBJECTION, LEADING.

8 THE COURT: SUSTAINED. THE ANSWER IS STRICKEN.

9 BY MS. GARRIDO:

10 Q. WHAT, IF ANYTHING, DID YOUR FATHER DO IN ORDER TO  
11 COMPENSATE YOU FOR PAYING YOU LESS?

12 A. HE HELPED ME WITH MY HOUSE, THE PURCHASE OF MY HOME, AND  
13 ALSO WITH MONTHLY MORTGAGES.

14 Q. WAS THIS AN ACCEPTABLE AGREEMENT FOR YOU?

15 A. YES, IT WAS.

16 Q. DID YOU ASK FOR A CONTRACT?

17 A. NO, I DID NOT.

18 Q. DID YOU KEEP RECORDS, WRITTEN RECORDS OF ANY KIND  
19 REGARDING THIS AGREEMENT?

20 MR. FAZIOLI: OBJECTION, LEADING.

21 THE COURT: SUSTAINED. YOU CAN ASK ANOTHER  
22 QUESTION.

23 BY MS. GARRIDO:

24 Q. DID YOU MEMORIALIZE THIS AGREEMENT IN ANY WAY?

25 MR. FAZIOLI: SAME OBJECTION.

1 THE COURT: DO YOU WANT TO REPHRASE THE QUESTION?

2 BY MS. GARRIDO:

3 Q. MS. HOLMES, WAS THERE -- IS THERE ANY PIECE OF PAPER THAT  
4 YOU'RE AWARE OF TO DOCUMENT THIS TRANSACTION?

5 A. NOT THAT I RECALL.

6 Q. AND WAS THIS ORAL -- THE ORAL NATURE OF THIS AGREEMENT,  
7 WAS THIS CONSISTENT WITH HOW YOUR FAMILY TYPICALLY DEALT WITH  
8 ONE ANOTHER?

9 A. YES.

10 MR. FAZIOLI: SAME OBJECTION, YOUR HONOR.

11 THE COURT: IT IS LEADING. I'LL ALLOW IT. COUNSEL,  
12 YOU CAN ASK NON-LEADING QUESTIONS.

13 BY MS. GARRIDO:

14 Q. DID ANYTHING AT ALL SEEM STRANGE ABOUT THIS ARRANGEMENT?

15 A. NO. IT WAS VERY NORMAL.

16 Q. I'D LIKE TO ASK YOU TO TAKE A LOOK AT DEFENSE EXHIBIT H.  
17 DO YOU RECOGNIZE THIS DOCUMENT?

18 A. YES.

19 Q. OR THIS PHOTOGRAPH?

20 A. YES.

21 Q. AND WHAT IS IT?

22 A. THIS IS A PICTURE OF MYSELF AND MY SISTER JACQUIE WORKING  
23 AT A TRADE SHOW FOR PAIGES SECURITY DOING MARKETING.

24 Q. OKAY. AND DO YOU KNOW APPROXIMATELY WHEN THAT PHOTOGRAPH  
25 WAS TAKEN?

HOLMES DIRECT

1 A. TO MY RECOLLECTION IT WAS AROUND SOME TIME IN 1999.

2 Q. DID YOUR SISTER JACQUIE ALSO WORK FOR PAIGES SECURITY  
3 SERVICE AT THE TIME?

4 A. YES.

5 Q. AND DID MANY OF YOUR FAMILY MEMBERS WORK FOR PAIGES?

6 A. MOST OF MY FAMILY MEMBERS.

7 MS. GARRIDO: AT THIS TIME I WOULD ASK TO ADMIT  
8 DEFENSE EXHIBIT H AS WELL AS DEFENSE EXHIBIT K, THE PAIGES  
9 BROCHURE.

10 MR. FAZIOLI: YOUR HONOR, WE OBJECT TO THE RELEVANCE  
11 OF H. EXHIBIT K WE DISCUSSED THIS MORNING -- EXHIBIT H WE  
12 OBJECT TO THE RELEVANCE OF THE PICTURE ITSELF. EXHIBIT K, AS  
13 WE DISCUSSED THIS MORNING, THERE'S NUMEROUS GROUNDS OF US  
14 OBJECTING TO THE RELEVANCE OF THE BROCHURE.

15 THE COURT: ARE YOU ASKING THAT K IN ITS ENTIRETY BE  
16 INTRODUCED?

17 MS. GARRIDO: YES.

18 THE COURT: I'LL SUSTAIN THE OBJECTION TO K IN ITS  
19 ENTIRETY.

20 WHAT IS THE RELEVANCE OF THE PHOTOGRAPH?

21 MS. GARRIDO: IT'S TO CORROBORATE MS. HOLMES'S  
22 TESTIMONY AND TO SHOW FOR THE JURY THE PHOTOGRAPH THAT SHE JUST  
23 AUTHENTICATED.

24 THE COURT: AND WHAT IS THE RELEVANCE OF THE  
25 PHOTOGRAPH?

HOLMES DIRECT

1 MS. GARRIDO: TO ESTABLISH THAT MS. HOLMES WORKED AT  
2 PAIGES SECURITY SERVICE AND FOR PAIGES SECURITY SERVICE AS AN  
3 AGENT OF HER FATHER.

4 THE COURT: I'M GOING TO SUSTAIN THE OBJECTION AT  
5 THIS TIME. IF YOU LAY A FOUNDATION, PERHAPS IT COULD COME IN,  
6 BUT I'LL SUSTAIN THE OBJECTION AT THIS POINT.

7 BY MS. GARRIDO:

8 Q. DID YOU PURCHASE A RESIDENCE AT 312 MOONRACKER DRIVE IN  
9 VALLEJO, CALIFORNIA?

10 A. YES.

11 Q. AND WHEN DID YOU DO THAT?

12 A. 1999.

13 Q. AND WAS YOUR FATHER INVOLVED WITH THE PURCHASE OF YOUR  
14 HOME?

15 A. COULD YOU REPEAT THE QUESTION.

16 Q. WAS YOUR FATHER INVOLVED IN THE PURCHASE OF YOUR HOME?

17 A. YES, HE WAS.

18 Q. HOW?

19 A. HE WAS A JOINT TENANT ON THE CONTRACT WITH ME AND HELPED  
20 WITH THE PURCHASE OF THE HOME MONETARILY.

21 Q. OKAY. AND WHY WAS HE INVOLVED?

22 A. BECAUSE MY FATHER WAS A PERSON THAT I TRUSTED AND LOOKED  
23 TO, TO HELP ME AND ASSIST ME WITH ANY TYPE OF BUSINESS OR  
24 ARRANGEMENTS. I LOOKED TO HIM FOR TRUST AND ALSO I QUALIFIED  
25 FOR \$200,000 AND HE HELPED ME TO QUALIFY FOR MORE, A LITTLE BIT

HOLMES DIRECT

1 MORE WITHIN OUR VERBAL CONTRACT.

2 Q. AND WHAT WAS THE ORIGINAL PURCHASE PRICE OF THE HOME?

3 A. 235 I BELIEVE.

4 Q. AND WAS YOUR FATHER ON THE LOAN AS WELL AS THE TITLE?

5 A. YES, HE WAS.

6 Q. DID YOUR FATHER EVER LIVE IN THAT HOME WITH YOU?

7 A. NO.

8 Q. YOUR FATHER?

9 A. NO.

10 Q. WHO LIVED IN THE HOME?

11 A. MY SON WHEN HE RETURNED FROM COLLEGE FOR A SHORT TIME.

12 Q. DID YOU LIVE IN THE HOME?

13 A. YES.

14 Q. OTHER THAN YOUR SON, WERE YOU THE ONLY PERSON WHO EVER  
15 LIVED IN IT DURING THE TIME THAT YOU OWNED IT?

16 A. MY GRANDDAUGHTER HAS COME AND STAYED FROM TIME TO TIME.

17 Q. DID YOUR FATHER EVER SAY ANYTHING ABOUT WHETHER OR NOT HE  
18 WANTED TO MOVE IN THERE AT ANY POINT?

19 A. NO.

20 Q. DID HE SAY ANYTHING TO YOU ABOUT EVER WANTING TO USE IT AS  
21 A RENTAL PROPERTY?

22 A. NO.

23 Q. DID HE GIVE YOU ANY INDICATION THAT HE WANTED THE HOME TO  
24 BE FOR ANYONE OTHER THAN YOU?

25 A. NO.

HOLMES DIRECT

1 MR. FAZIOLI: OBJECTION, YOUR HONOR, LEADING AND  
2 HEARSAY.

3 THE COURT: SUSTAINED AS LEADING. THE ANSWER IS  
4 STRICKEN.

5 BY MS. GARRIDO:

6 Q. WHAT, IF ANYTHING, DID YOUR FATHER SAY TO YOU ABOUT THE  
7 HOUSE?

8 A. THAT VERBALLY IT WAS UNDER A MORE OR LESS A WORK CONTRACT  
9 IF I HAD -- IF HE HAD EMPLOYEES IN THE AREA AND I NEEDED TO DO  
10 TRAINING, I MAY NEED TO USE THE HOME FOR TRAINING OR IF THERE  
11 WERE POSSIBLY ONE OF MY PARTNERS THAT WORKED DOWN IN THE L.A.  
12 AREA WOULD COME UP, SHE WOULD POSSIBLY STAY SOME TIME, OR IF I  
13 NEEDED OTHER WORKERS TO HAVE A REST BREAK OR SOMETHING,  
14 TRAVELLING BETWEEN AROUND NORTHERN CALIFORNIA.

15 Q. ALL RIGHT. NOW, WHAT, IF ANYTHING, DID HE TELL YOU ABOUT  
16 WHOSE HOME HE BELIEVED IT TO BE?

17 A. IT ALWAYS -- IT WAS ALWAYS PURCHASED FOR ME.

18 MR. FAZIOLI: YOUR HONOR, I'M GOING TO OBJECT AND  
19 MOVE TO STRIKE. THIS IS HEARSAY TESTIMONY THAT WE'RE  
20 ELICITING.

21 THE COURT: IS THIS OFFERED FOR THE TRUTH OF THE  
22 MATTER ASSERTED?

23 MS. GARRIDO: NO, YOUR HONOR. IT GOES TO THE EFFECT  
24 OF MYRA HOLMES AND HER STATE OF MIND AS WELL AS HER INTENT.

25 THE COURT: SO, LADIES AND GENTLEMEN, THE PREVIOUS

1 STATEMENT REGARDING MR. PAIGE'S INTENTION OF THE HOUSE IS  
2 ADMITTED NOT FOR THE TRUTH OF THAT MATTER ASSERTED. IT'S  
3 ADMITTED SOLELY FOR THE IMPACT, IF ANY, ON THIS WITNESS'S STATE  
4 OF MIND.

5 BY MS. GARRIDO:

6 Q. DO YOU KNOW WHETHER THE FACT OF THE HOME BEING YOURS WAS  
7 COMMON KNOWLEDGE WITHIN YOUR FAMILY?

8 A. YES.

9 Q. AND WHAT WAS THE COMMON KNOWLEDGE WITHIN YOUR FAMILY?

10 A. EVERYONE IN THE FAMILY KNEW AND BELIEVED THAT IT WAS MY  
11 HOME.

12 Q. ARE YOU AWARE OF HOW YOUR PARENTS HELD TITLE IN THEIR  
13 OTHER PROPERTIES?

14 A. YES.

15 Q. AND HOW DID THEY HOLD TITLE IN THEIR OTHER PROPERTIES?

16 A. LEONARD AND CARRIE OWNED JOINT TITLE IN ALL OF THEIR OTHER  
17 PROPERTIES.

18 Q. AND IS THAT -- WHAT, IF ANY, DIFFERENCE IS THERE BETWEEN  
19 HOW THEY HELD TITLE IN THOSE PROPERTIES AND HOW TITLE WAS HELD  
20 IN YOUR HOME?

21 A. ONLY MY FATHER AND MYSELF HELD TITLE IN MY HOME.

22 Q. YOUR MOTHER WASN'T ON THAT TITLE?

23 A. NO, MA'AM.

24 Q. AND DID SHE TAKE ANY STEPS IN ORDER TO MAKE SURE THAT THAT  
25 HAPPENED?



HOLMES DIRECT

1 A. YES. AT THE TIME OF THE PURCHASE, SHE SIGNED OFF ON, I  
2 DON'T KNOW WHAT YOU WOULD CALL IT, A GRANT DEED OR SOME KIND OF  
3 A DEED TO ENSURE THAT SHE WAS NOT ON THE HOME.

4 Q. OKAY. AND SPECIFICALLY REFERRING YOU TO DEFENSE EXHIBIT A  
5 THAT HAS ALREADY BEEN ENTERED INTO EVIDENCE. IS THAT THE  
6 DOCUMENT THAT YOU'RE REFERRING TO?

7 A. YES, INTERSPOUSAL TRANSFER GRANT DEED.

8 Q. AND, NOW, WHO PAID THE DOWN PAYMENT ON THE MOONRACKER  
9 HOME?

10 A. I PAID A PORTION OF IT, AND MY FATHER ALSO PAID A PORTION.

11 Q. AND YOU'VE SEEN SOME EVIDENCE DURING THIS TRIAL OF A  
12 \$2,500 CHECK THAT YOU CONTRIBUTED AT THE BEGINNING?

13 A. RIGHT.

14 Q. AND WAS THAT FROM YOUR OWN FUNDS?

15 A. YES, MA'AM.

16 Q. AND DID YOU CONTRIBUTE MORE THAN THAT?

17 A. YES, I DID.

18 Q. AND HOW DID YOU DO THAT?

19 A. I GAVE HIM MONEY -- UM, CASH.

20 Q. AND WHEN -- WAS THAT UNUSUAL TO GIVE CASH TO YOUR FATHER?

21 A. NO, NOT TO MY FATHER.

22 Q. OKAY.

23 A. NO.

24 Q. AND WHAT FUNDS DID YOU USE TO GIVE HIM CASH?

25 A. I HAD TOOK A BUYOUT FROM THE GOVERNMENT IN 1997 AND HELPED

HOLMES DIRECT

1 HIM WITH SOME OF THAT MONEY HE USED.

2 Q. AND WHEN YOU SAY YOU TOOK A BUYOUT, WHAT DO YOU MEAN BY  
3 THAT?

4 A. OAKLAND ARMY BASE WAS CLOSING AND, THEREFORE, I HAD ENOUGH  
5 TIME TO QUALIFY FOR THE BUYOUT.

6 Q. AND WHAT WERE YOU EXACTLY BEING BOUGHT OUT FOR? WHAT DO  
7 YOU MEAN BY THAT?

8 A. I HAD A CHOICE TO EITHER TRANSFER TO VIRGINIA OR EITHER  
9 TAKE A BUYOUT AND LEAVE THE GOVERNMENT.

10 Q. I'D LIKE TO REFER YOU TO DEFENSE EXHIBIT U. DO YOU  
11 HAVE -- YOU'RE OPEN TO DEFENSE EXHIBIT U?

12 A. YES, MA'AM.

13 Q. AND DO YOU RECOGNIZE THAT DOCUMENT?

14 A. YES, I DO.

15 Q. AND WHAT IS THAT?

16 A. THIS IS MY BUYOUT FROM WHEN I LEFT THE GOVERNMENT.

17 Q. AND IS THIS LETTER A TRUE -- WELL, DID YOU RECEIVE THIS  
18 LETTER?

19 A. YES, MA'AM.

20 Q. AND HOW DID YOU RECEIVE IT?

21 A. THROUGH THE MAIL.

22 Q. AND WHEN DID YOU RECEIVE IT?

23 A. I DON'T RECALL.

24 Q. AND IS IT A TRUE AND ACCURATE COPY OF THE LETTER THAT YOU  
25 RECEIVED?

HOLMES DIRECT

1 A. AS FAR AS I CAN TELL.

2 MS. GARRIDO: AT THIS TIME I WOULD ASK TO ADMIT  
3 DEFENSE EXHIBIT U.

4 MR. FAZIOLI: WE WOULD OBJECT ON HEARSAY AND  
5 RELEVANCE GROUNDS, YOUR HONOR. THE DATE OF THE DOCUMENT --

6 THE COURT: I'M SORRY?

7 MR. FAZIOLI: THE DATE OF THE DOCUMENT MARCH 2009  
8 DATE GIVES US SOME PAUSE.

9 THE COURT: I'M SORRY?

10 MR. FAZIOLI: THE MARCH 2009 DATE OF THE DOCUMENT  
11 GIVES US SOME CONCERN AS TO THE RELEVANCE.

12 MS. GARRIDO: THE REFUND DATE IS 1998.

13 THE COURT: I DON'T BELIEVE THERE'S EVIDENCE OF THAT  
14 YET. SO WHY DON'T YOU LAY A FOUNDATION.

15 BY MS. GARRIDO:

16 Q. DO YOU RECALL, MS. HOLMES, WHEN YOU RECEIVED THE BUYOUT?

17 A. I LEFT THE GOVERNMENT IN DECEMBER OF '97 AND SHORTLY AFTER  
18 THAT SOME TIME, AS THIS DOCUMENT SAYS, PROBABLY AROUND 1998,  
19 MAY OF 1998.

20 Q. AND DID YOU RECEIVE THIS LETTER SOME TIME AFTER THAT DATE?

21 A. YES, I DID.

22 Q. BUT YOU'RE NOT -- YOU DON'T RECALL SPECIFICALLY WHEN?

23 A. NO, MA'AM.

24 MS. GARRIDO: I'D MOVE TO ADMIT DEFENSE U.

25 MR. FAZIOLI: NO OBJECTION.

1 THE COURT: IT WILL BE RECEIVED.

2 (DEFENDANT'S EXHIBIT U WAS RECEIVED IN EVIDENCE.)

3 BY MS. GARRIDO:

4 Q. NOW, MS. HOLMES, THE AMOUNT YOU RECEIVED, IS THAT LISTED  
5 ON DEFENSE U? AND IF YOU COULD JUST BLOW UP THAT SECTION.

6 A. YES, IT IS.

7 Q. AND WHAT WAS THAT AMOUNT?

8 A. \$33,229.93.

9 Q. WHEN YOU RECEIVED THOSE FUNDS, WHAT DID YOU DO WITH THEM?

10 A. I HELPED MY FATHER OUT WITH SOME OF THEM AND THEN I ALSO  
11 HELPED SEND MY SON TO SCHOOL AND LIVED OFF -- USED SOME OF IT  
12 FOR LIVING EXPENSES.

13 Q. OKAY. AND SO YOU SPENT SOME OF IT?

14 A. YES.

15 Q. OKAY. AND THE PORTION THAT YOU USED TO HELP YOUR  
16 FATHER --

17 A. UH-HUH.

18 Q. -- HOW MUCH WAS THAT?

19 A. FROM MY RECOLLECTION BETWEEN \$8,000 TO \$10,000.

20 Q. AND BY HELPING YOUR FATHER, WHAT DO YOU MEAN?

21 A. HE NEEDED SOME ASSISTANCE WITH BUYING SOME EQUIPMENT AT  
22 THE TIME AND SO I HELPED HIM.

23 Q. WAS THAT A PERSONAL OR A BUSINESS EXPENSE THAT HE NEEDED  
24 THE EQUIPMENT FOR?

25 A. BUSINESS.

HOLMES DIRECT

1 Q. AND SO WHEN IT WAS TIME TO PAY THE DOWN PAYMENT ON YOUR  
2 HOME AT MOONRACKER, DID YOU -- HOW DID -- WHAT WAS YOUR  
3 UNDERSTANDING OF WHAT PORTION OF THE DOWN PAYMENT YOU WERE  
4 PAYING?

5 MR. FAZIOLI: OBJECTION, THIS IS LEADING.

6 THE COURT: DO YOU WANT TO REPHRASE THE QUESTION.

7 BY MS. GARRIDO:

8 Q. WHAT WAS YOUR UNDERSTANDING ABOUT HOW MUCH OF THE DOWN  
9 PAYMENT YOU WERE CONTRIBUTING?

10 A. AT LEAST THE MONEY I HAD ALREADY LOANED TO HIM AND WE  
11 TALKED ABOUT MY WORKING CONDITIONS FOR PAIGES SECURITY THAT  
12 WENT ALONG WITH THAT.

13 Q. AND WHAT EXACTLY DID YOU DISCUSS REGARDING THAT?

14 A. HIM NOT BEING ABLE TO PAY ME THE SALARY THAT HE THOUGHT  
15 THAT I SHOULD RECEIVE.

16 Q. AND SO DID YOU HAVE AN AGREEMENT ABOUT WHAT AMOUNT OF THE  
17 DOWN PAYMENT WOULD CONSTITUTE SALARY?

18 A. HE REQUIRED ME TO PAY \$300 A MONTH ON THE MONTHLY  
19 MORTGAGE.

20 Q. OKAY. AND WE'LL TALK ABOUT THE MORTGAGE IN A MINUTE.

21 A. OKAY.

22 Q. BUT JUST REGARDING THE DOWN PAYMENT, DID YOU HAVE AN  
23 AGREEMENT WITH YOUR FATHER ABOUT HOW MUCH OF THE DOWN PAYMENT  
24 WAS REPRESENTED OF THE SALARY?

25 A. NO, WE DID NOT.

HOLMES DIRECT

1 Q. WHAT WAS YOUR UNDERSTANDING ABOUT HOW MUCH OF IT  
2 REPRESENTED SALARY?

3 A. AT LEAST HALF.

4 Q. AND SO ANY CASH THAT YOU GAVE HIM TOWARD THE DOWN PAYMENT,  
5 WHAT DID YOU DO WITH IT?

6 A. WHAT DID I DO WITH IT?

7 Q. YES. WHERE DID YOU PUT THE CASH?

8 A. TOWARDS THE DOWN PAYMENT. I GAVE IT TO LEONARD PAIGE, MY  
9 FATHER.

10 Q. OKAY. DID YOU KEEP ANY RECORDS OF THAT?

11 A. NO, MA'AM.

12 Q. THERE ARE NO CONTRACTS OR RECEIPTS OF THAT TRANSACTION?

13 A. NO.

14 Q. WHO PAID THE MORTGAGE AT FIRST?

15 A. HE PAID ALL OF IT -- I PAID TWO MONTHS, I BELIEVE, IF I  
16 RECALL AND THEN HE HAD IT TRANSFERRED TO HIS HOME.

17 Q. DO YOU KNOW WHY HE DID THAT?

18 A. BECAUSE HE WANTED TO BE RESPONSIBLE FOR AND HE REQUIRED ME  
19 TO BE RESPONSIBLE WITH THE \$300 THAT WE TALKED ABOUT.

20 Q. OKAY. SO TELL ME ABOUT THE \$300. WHAT AGREEMENT WAS  
21 THIS?

22 A. THIS WAS THAT HE WAS NOT ABLE TO PAY ME ALL OF MY SALARY  
23 THAT HE FELT THAT I DESERVED FOR THE WORK THAT I WAS DOING AND  
24 FOR ME TO PAY \$300 AND HE WOULD TAKE CARE OF THE REST.

25 Q. AND WHAT WAS YOUR UNDERSTANDING ABOUT THE PORTION THAT HE

HOLMES DIRECT

1 WAS COVERING FOR THE MORTGAGE?

2 A. THAT IT WAS MY SALARY AND TRAVELLING FOR THE COMPANY FOR  
3 WORK AT PAIGE SECURITY.

4 Q. AND HOW OFTEN WERE YOU TRAVELLING FOR THE COMPANY?

5 A. OH, I WAS -- MY HOUSE WAS LOCATED IN VALLEJO. MY OFFICE  
6 WAS LOCATED IN MARINA, CALIFORNIA. AND THEN HE HAD CONTRACTS  
7 THROUGHOUT CALIFORNIA AND SO I WAS TRAVELLING WEEKLY, SOMETIMES  
8 GONE AWAY FOR WEEKS AT A TIME.

9 Q. OKAY. HOW DID YOU CONTRACT THE \$300 PER MONTH?

10 A. I WOULD BE AT HIS OFFICE OR HE WOULD BE AT LUNCH AND I  
11 WOULD GIVE IT TO HIM.

12 Q. AND WAS THAT IN CASH? CHECKS?

13 A. YES, MA'AM, CASH.

14 Q. AND DID YOU GET ANY RECEIPTS FROM HIM WHEN YOU GAVE IT TO  
15 HIM?

16 A. NO, MA'AM.

17 Q. WHAT WAS THE CONDITION OF YOUR HOME WHEN YOU MOVED IN?

18 A. IN 1999 IT WAS IN FAIRLY GOOD CONDITION BUT IT DID NEED  
19 SOME WORK.

20 Q. WHAT KIND OF WORK?

21 A. IT NEEDED TO BE PAINTED, NEW GUTTERS, LANDSCAPING THAT I  
22 RECALL.

23 Q. AND WHO DID YOU HIRE FOR -- TO HELP YOU WITH THESE  
24 IMPROVEMENTS?

25 A. VARIOUS, VARIOUS PEOPLE.

HOLMES DIRECT

1 Q. AND DID -- FIRST OF ALL, WHO IS JEREMY HOLMES?

2 A. MY SON.

3 Q. AND DID HE DO ANY WORK ON THE HOUSE?

4 A. YES, HE HELPED A LOT.

5 Q. AND WHAT KIND OF WORK DID HE DO?

6 A. HE HELPED WITH PUTTING IN A NEW TOILET, HE DID ELECTRICAL  
7 WORK. HE'S VERY GOOD WITH HIS HANDS AND HELPED ME.

8 Q. AND WHAT KIND OF TRAINING, TO YOUR KNOWLEDGE, DOES HE HAVE  
9 IN THE FIELD OF ELECTRIC?

10 A. ELECTRIC? HE WENT TO CONSTRUCTION SCHOOL IN FAIRFIELD,  
11 CALIFORNIA AND BUILT SPEAKERS AND WORKED WITH HIS HANDS. HE  
12 WAS VERY GOOD WITH HIS HANDS.

13 Q. AND DID YOU PAY HIM FOR HIS WORK?

14 A. SOMETIMES.

15 Q. SOMETIMES NOT?

16 A. AND SOMETIMES NOT. AND SOMETIMES NOT.

17 Q. OKAY. AND WHO IS CRAIG TORRES?

18 A. HE PAINTED MY HOUSE.

19 Q. AND DID HE DO OTHER WORK ON THE HOME?

20 A. YES, AND HE DID SOME TERMITE WORK THAT HE SAW AND ALSO  
21 REBUILT MY DECK?

22 Q. AND DID YOU PAY HIM FOR HIS WORK?

23 A. YES, I DID.

24 Q. AND WHAT ABOUT TERRY ROBERTS?

25 A. TERRY ROBERTS DID A LOT OF GARDENING AND LANDSCAPING WORK



HOLMES DIRECT

1 AROUND MY HOME.

2 Q. AND DID YOU PAY HIM FOR HIS WORK?

3 A. YES, I DID.

4 Q. ALL OF THIS MAINTENANCE AND UPKEEP AND IMPROVEMENTS, DID  
5 YOUR FATHER CONTRIBUTE TO THAT?

6 A. NO, HE DID NOT.

7 Q. AND WAS THAT 100 PERCENT OUT OF YOUR OWN FUNDS?

8 A. YES.

9 Q. I'D LIKE TO REFER YOU TO A GOVERNMENT EXHIBIT. IT WILL BE  
10 IN THE BINDER WITH EXHIBITS 160 TO 221. IT'S BINDER 405. AND  
11 SPECIFICALLY EXHIBIT 186. AND IF YOU COULD PULL UP  
12 EXHIBIT 186-3. THIS HAS ALREADY BEEN ADMITTED INTO EVIDENCE.

13 I'LL KEEP ASKING YOU ABOUT IT. DO YOU RECOGNIZE THIS  
14 DOCUMENT, NUMBER 186-3?

15 A. YES, MA'AM.

16 Q. IS THAT -- IS THAT SOMETHING THAT YOU CREATED?

17 A. YES.

18 Q. AND WHAT IS IT?

19 A. IT WAS AN ITEMIZED LIST THAT WAS REQUESTED ON SOME OF THE  
20 HOME IMPROVEMENTS AND PAINTING THAT WENT INTO MY HOME.

21 Q. AND THE FIRST ITEM LISTED THERE IS DOWN PAYMENT. IN  
22 AUTHORIZING THIS ITEMIZED EXPENSE REPORT, WERE YOU REPRESENTING  
23 THAT YOU HAD MADE THE DOWN PAYMENT?

24 A. NO, NOT NECESSARILY. IT WAS JUST THAT THE DOWN PAYMENT  
25 WAS \$50,000.

Q. AND WAS IT SOMETHING THAT YOU FELT AT THAT TIME THAT YOU HAD CONTRIBUTED TO THE HOUSE?

A. YES.

Q. WHY?

A. BECAUSE OF THE ARRANGEMENT THAT MY FATHER AND I HAD.

Q. AND SO BY INCLUDING THAT DID YOU MEAN TO SAY THAT YOU SPECIFICALLY HAD WRITTEN THE CHECK FOR \$50,000?

MR. FAZIOLI: OBJECTION, LEADING.

THE COURT: SUSTAINED.

BY MS. GARRIDO:

Q. AND WHAT WERE YOU SAYING BY THIS?

A. JUST THAT THERE WAS A DOWN PAYMENT OF \$50,000 PLACED ON MY HOME.

Q. OKAY.

A. AT THE TIME OF PURCHASE.

Q. AND WERE YOU REPRESENTING -- WHAT, IF ANYTHING, WERE YOU REPRESENTING ABOUT WHOSE FUNDS WERE RESPONSIBLE FOR THAT DOWN PAYMENT?

A. I DON'T RECALL REPRESENTING ANYONE, JUST THAT THE DOWN PAYMENT WAS \$50,000.

Q. AND THE MORTGAGE PAYMENTS THAT ARE LISTED THERE, WHY DID YOU INCLUDE THOSE?

A. MORTGAGE?

Q. THAT'S THE SECOND AND THE THIRD LINES?

A. BECAUSE THOSE WERE THE MONTHLY MORTGAGE PAYMENTS PAID BY

HOLMES DIRECT  
1 MY FATHER AND MYSELF.

2 Q. AND IN YOUR VIEW WHO WAS RESPONSIBLE -- WHOSE MONEY WAS  
3 THAT THAT WAS GOING TOWARDS THE DOWN PAYMENTS?

4 MR. FAZIOLI: AGAIN, OBJECTION, LEADING.

5 THE WITNESS: BOTH OF OURS.

6 THE COURT: EXCUSE ME. I'LL ALLOW THE ANSWER TO  
7 REMAIN.

8 COUNSEL, IF YOU'LL ASK NON-LEADING QUESTIONS, PLEASE.  
9 BY MS. GARRIDO:

10 Q. NOW, THE REST OF THE EXPENSES ON THE LIST. DID YOU  
11 ACTUALLY ATTACH RECEIPTS TO THIS LIST?

12 A. FOR SOME I HAD RECEIPTS AND FOR OTHERS I DIDN'T.

13 Q. OKAY. DID YOU ATTACH ALL OF THE RECEIPTS THAT YOU HAD AT  
14 THAT TIME?

15 A. YES, MA'AM.

16 Q. DID YOU LIST ALL OF THE MAJOR EXPENSES THAT YOU HAD BEEN  
17 RESPONSIBLE FOR ON THE HOME?

18 A. THAT I COULD RECALL AT THAT TIME.

19 Q. OKAY. AND TO YOUR KNOWLEDGE DID YOUR FATHER CONTRIBUTE  
20 MONEY TOWARDS ANY OF THOSE OTHER EXPENSES?

21 MR. FAZIOLI: OBJECTION, LEADING.

22 YOUR HONOR, MAY WE APPROACH?

23 THE COURT: YES.

24 (SIDE-BAR CONFERENCE ON THE RECORD.)

25 MR. FAZIOLI: YOUR HONOR, JUST ABOUT EVERY SINGLE

HOLMES DIRECT

ONE OF THESE QUESTIONS ABOUT HER INTERACTIONS WITH THE FATHER ARE LEADING, AND WE HAVE BEEN OBJECTING. IT'S GETTING SUSTAINED AND THEN IT'S BEING REPHRASED.

AND MY CONCERN IS THAT IT IS SLOWING IT UP AND I WONDER IF THE DIRECT EXAMINATION CAN PROCEED IN A WAY THAT IT'S NOT LEADING.

MS. GARRIDO: I HAVE BEEN MAKING EVERY ATTEMPT TO ASK OPEN ENDED QUESTIONS. I HAVE NOT BEEN ASKING ANY QUESTIONS THAT SUGGEST THE ANSWER. I HAVE TO GIVE SOME CONTEXT FOR WHAT I'M ASKING. I CAN'T JUST ASK A COMPLETELY OPEN ENDED QUESTION LIKE, MS. HOLMES, YOU ANSWER A QUESTION AND SO I HAVE TO PROVIDE SOME DIRECTION. I HAVE NEVER HAD SO MANY OBJECTIONS IN MY LIFE, AND IT'S ACTUALLY LIKE AN OBSTRUCTIONIST AND IT'S SLOWING THINGS DOWN.

IF THERE'S AN OBJECTION, I'M SURE IT WILL BE RAISED AT THE APPROPRIATE TIME. WE'RE NOW HAVING A SIDE-BAR ABOUT COUNSEL'S CONCERNS, AND AS WE HAVE HAD MANY, MANY SIDE-BARS ABOUT COUNSEL'S CONCERNS.

MR. FAZIOLI: VIRTUALLY EVERY SINGLE ONE OF THESE QUESTIONS IS LEADING AND ALMOST EVERY ONE OF THESE LEADING OBJECTIONS HAVE BEEN SUSTAINED. THERE'S A REASON WHY YOU'RE NOT SUPPOSED TO ASK LEADING QUESTIONS ON DIRECT AND RATHER THAN HAVE US OBJECT HOWEVER MANY MORE TIMES TO LEADING OBJECTIONS, WE FIGURE THAT THIS IS SOMETHING THAT CAN BE RESOLVED EFFICIENTLY NOW OR PERHAPS GET SOME ADDITIONAL GUIDANCE FROM

HOLMES DIRECT

1 THE COURT.

2 AND ALMOST EVERY ONE OF THESE QUESTIONS IS DESIGNED TO GET  
3 AN ANSWER OF YES AND IT'S THE FORM OF ARGUMENT IN A LEADING  
4 QUESTION.

5 MS. GARRIDO: THAT'S NOT A DEFINITION OF A LEADING  
6 QUESTION AS TO WHETHER OR NOT IT'S A YES OR NO ANSWER.

7 THE DEFINITION OF A LEADING QUESTION IS WHETHER OR NOT IT  
8 SUGGESTS THE ANSWER THAT YOU'RE LOOKING FOR. SO I DISAGREE.

9 MR. FAZIOLI: THEN WE DISAGREE.

10 THE COURT: MS. LIE, DO YOU WISH TO BE HEARD?

11 MS. LIE: YOUR HONOR, I WOULD JUST NOTE THAT BY  
12 COUNSEL'S OWN STANDARDS THEIR EXAMINATION OF THE MAJORITY OF  
13 THEIR WITNESSES WOULD HAVE BEEN LEADING TO THE EXTENT THAT THEY  
14 CALLED FOR YES OR NO ANSWERS.

15 I WOULD AGREE WITH MS. GARRIDO'S ASSESSMENT TO THE EXTENT  
16 THAT SHE'S NOT SUGGESTING AN ANSWER BUT MERELY PROVIDING A  
17 CONTEXT FOR A QUESTION THAT IT'S MERELY PERMISSIBLE  
18 EXAMINATION.

19 THE COURT: THANK YOU. COUNSEL WILL BE PERMITTED  
20 SOME FOUNDATIONAL LEEWAY IN ASKING SOME FOUNDATIONAL QUESTIONS  
21 BUT APPARENTLY LEADING QUESTIONS, WHATEVER THAT IS PERMITTED ON  
22 DIRECT EXAMINATION.

23 SO I UNDERSTAND THAT YOU MAY HAVE SOME DIFFICULTY,  
24 MS. GARRIDO, FORMULATING A QUESTION THAT IS NOT LEADING, AND  
25 I'LL GIVE YOU SOME LEEWAY. BUT I THINK LEADING QUESTIONS ARE

HOLMES DIRECT

1 NOT PERMITTED, AND I THINK I SUGGESTED THAT AND THE OBJECTIONS  
2 ARE WELL TAKEN AS TO THE PHRASING OF THE QUESTIONS.

3 I UNDERSTAND THAT YOU NEED TO LAY SOME FOUNDATION AND  
4 CONTEXT, AND I'LL ALLOW THAT AS BEST YOU CAN.

5 I TRUST THAT YOU'RE GOING TO DO THE BEST YOU CAN TO NOT  
6 LEAD THE WITNESS ON DIRECT.

7 MR. FAZIOLI: THANK YOU.

8 THE COURT: ANYTHING FURTHER?

9 MS. GARRIDO: NO.

10 (END OF DISCUSSION AT SIDEBAR.)

11 BY MS. GARRIDO:

12 Q. MS. HOLMES -- YOU CAN PUT THAT DOWN.

13 WE HAVE HEARD SOME TESTIMONY THAT PAIGES SECURITY SERVICE  
14 WAS UNABLE TO PAY THE EMPLOYEE'S THE CORPORATION'S SHARE OF THE  
15 RETIREMENT ACCOUNTS.

16 WHAT, IF ANY, EFFECT DID THIS HAVE ON YOU?

17 A. I DIDN'T RECEIVE ALL OF MY RETIREMENT, AND I WAS LAID OFF  
18 IN 2002, PRIOR TO THE COMPANY CLOSING.

19 Q. DID YOU DISCUSS THAT WITH YOUR FATHER AT ALL?

20 A. REGARDING -- I DON'T QUITE UNDERSTAND WHAT YOU MEAN?

21 Q. YOUR RETIREMENT? DID YOU DISCUSS YOUR RETIREMENT PAYMENTS  
22 AND YOU JUST TESTIFIED THAT YOU DIDN'T RECEIVE YOUR RETIREMENT.  
23 DID YOU DISCUSS THAT WITH YOUR FATHER?

24 A. RIGHT. HE DID EXPLAIN -- YES.

25 Q. AND WHAT WAS THE DISCUSSION THAT YOU HAD WITH YOUR FATHER

HOLMES DIRECT  
1 ABOUT THAT?

2 A. THAT HE WAS NOT ABLE TO PAY ME WHEN I LEFT EVERYTHING THAT  
3 WAS OWED TO ME BUT AS A FATHER HE WOULD CONTINUE TO DO WHAT HE  
4 COULD DO.

5 Q. OKAY. AND WHEN HE SAID HE WOULD CONTINUE TO DO WHAT HE  
6 COULD, DID HE SAY SPECIFICALLY WHAT HE WOULD DO?

7 A. CONTINUE TO PAY THE MORTGAGE ON MY HOME AND ASSIST IN ANY  
8 OTHER WAY THAT HE COULD FINANCIALLY.

9 Q. NOW, WHEN YOU STOPPED WORKING FOR PAIGES, WAS THAT BECAUSE  
10 YOU WERE LAID OFF?

11 A. YES, MA'AM.

12 Q. DID YOU HAVE ANY CONVERSATIONS WITH HIM ABOUT THAT, ABOUT  
13 BEING LAID OFF?

14 A. I RECEIVED A LETTER AS OTHER COMPANY EMPLOYEES RECEIVED  
15 WHEN THEY WERE LAID OFF.

16 Q. OKAY. DID YOU TALK WITH YOUR FATHER ABOUT THAT?

17 A. YES, WE DID HAVE A CONVERSATION ABOUT IT.

18 Q. AND WHAT WAS THE CONVERSATION?

19 A. THE CONVERSATION AS I RECALL WAS REGARDING PAIGES SECURITY  
20 AND WHAT WAS GOING TO GO ON WITH HIS BUSINESS.

21 Q. AND WERE YOU AWARE AS TO ANY FINANCIAL TROUBLE YOUR  
22 PARENTS WERE HAVING?

23 A. AT WHAT PARTICULAR TIME? I'M UNSURE.

24 Q. WELL, DID YOU FIND OUT AT ANY POINT THAT YOUR PARENTS HAD  
25 DECLARED BANKRUPTCY?

HOLMES DIRECT

1 A. YES.

2 Q. AND HOW DID YOU FIND OUT?

3 A. THEY CAME TO MY SISTER MARILYN'S HOUSE AND HAD A FAMILY  
4 MEETING.

5 Q. AND WHAT DID THEY TELL YOU?

6 A. THEY LET US KNOW THAT THEY WERE -- HAD FILED BANKRUPTCY.  
7 I FOUND OUT AFTER.

8 Q. AND PRIOR TO FINDING OUT THAT FROM THEM, DID YOU HAVE ANY  
9 IDEA THAT THEY WERE HAVING FINANCIAL PROBLEMS?

10 A. ONLY ONCE WHEN I TRIED TO DO AN EVENT, ONE OF HIS CREDIT  
11 CARDS DID NOT WORK AND SO, THEREFORE, I USED MINE AND AT THAT  
12 TIME HE ASSURED ME THAT THERE WAS NO PROBLEM.

13 Q. WHAT, IF ANY, IDEA DID YOU HAVE ABOUT HOW YOUR HOME COULD  
14 BE INVOLVED IN THE BANKRUPTCY?

15 A. I DIDN'T HAVE ANY IDEA UNTIL LATE 2004 TO 2005 THAT IT WAS  
16 INVOLVED.

17 Q. WHAT, IF ANYTHING, DID THEY TELL YOU PRIOR TO THAT TIME  
18 ABOUT LISTING YOUR HOME ON THEIR BANKRUPTCY SCHEDULES?

19 A. I DIDN'T EVEN REALIZE THAT IT WAS LISTED ON THE BANKRUPTCY  
20 SCHEDULE. I WAS NOT INVOLVED IN THEIR BANKRUPTCY.

21 Q. SO HOW DID YOU FIND OUT THAT YOUR HOME COULD BE AFFECTED?

22 A. LATE IN -- AS I RECALL LATE IN 2004, 2005 MY PARENTS  
23 MENTIONED TO ME.

24 Q. WHAT DID THEY MENTION?

25 A. THAT THEY WOULD NEED FOR, I BELIEVE HIS NAME WAS JOHN



HOLMES DIRECT

1 RICHARDSON WAS THE TRUSTEE, TO COME BY TO LOOK AT THE HOME.

2 Q. AND WHAT INTERACTION DID YOU HAVE WITH JOHN RICHARDSON?

3 A. I WELCOMED HIM IN AND HE CAME IN AND LOOKED AROUND THE  
4 HOUSE. THE ONLY REAL THING THAT I RECALL IS THAT HE ASKED ME  
5 SOME QUESTIONS REGARDING MY FATHER AND HIS BANKRUPTCY AND I  
6 REFERRED HIM BACK TO MY FATHER.

7 Q. OKAY.

8 A. AND HE REVIEWED THE HOUSE.

9 Q. AND DO YOU RECALL APPROXIMATELY WHEN THAT HAPPENED?

10 A. ALL I CAN RECALL IS THAT IT WAS AROUND 2004 OR 2005  
11 TIMEFRAME, OR IN THAT TIME.

12 Q. OKAY.

13 A. BUT TO THE BEST OF MY RECOLLECTION.

14 Q. NOW, DID YOU KNOW WHY HE WAS THERE LOOKING AT YOUR HOME?

15 A. NOT REALLY. I WASN'T REALLY SURE AT THE TIME. IT'S JUST  
16 THAT HE WAS INVOLVED IN THE BANKRUPTCY.

17 Q. WHEN HE CAME TO LOOK AT YOUR HOME, DID YOU -- WHAT, IF  
18 ANYTHING, DID YOU THINK ABOUT WHETHER OR NOT HE WANTED TO SELL  
19 YOUR HOME?

20 A. NOT AT THAT TIME THAT I RECALL.

21 Q. OKAY. AT SOME POINT WAS THERE AN ADVERSARY PROCEEDING?

22 A. AN ADVERSARY PROCEEDING?

23 Q. LET ME ASK YOU, WHAT IS AN ADVERSARY PROCEEDING?

24 A. I'M NOT REALLY SURE TO THIS DAY.

25 Q. OKAY.

HOLMES DIRECT

1 A. BUT I -- I'M NOT REALLY SURE TO THIS DAY.

2 Q. WERE YOU INVOLVED IN AN ADVERSARY PROCEEDING?

3 A. YES.

4 Q. OKAY. AND DID THAT HAVE TO DO WITH YOUR HOME?

5 A. YES.

6 Q. AND DID YOU GET A LAWYER?

7 A. YES, I DID.

8 Q. OKAY. AND HOW DID YOU FIND YOUR LAWYER?

9 A. FROM A FRIEND OF MY BROTHER-IN-LAW'S, JAMES HEARD.

10 Q. AND WHAT KIND OF A LAWYER WERE YOU LOOKING FOR?

11 A. BECAUSE IT WAS MY HOME, I LOOKED FOR A REAL ESTATE LAWYER.

12 Q. DID YOU LOOK FOR A BANKRUPTCY LAWYER?

13 A. NO, MA'AM.

14 Q. AND WHAT LAWYER DID YOU GET REFERRED TO?

15 A. PETER LIEDERMAN.

16 Q. NOW, DID YOU KNOW WHETHER OR NOT MR. LIEDERMAN HAD ANY  
17 EXPERIENCE IN BANKRUPTCY LAW?

18 A. NO, MA'AM.

19 Q. DID YOU KNOW WHETHER OR NOT HE HAD ANY EXPERIENCE IN REAL  
20 ESTATE LAW?

21 A. NO, MA'AM.

22 Q. WHAT WAS YOUR UNDERSTANDING OF WHO JOHN RICHARDSON WAS?

23 A. I WAS TOLD THAT HE WAS THE TRUSTEE.

24 Q. OKAY.

25 A. HE CAME TO MY HOME.

HOLMES DIRECT

1 Q. AND WHAT DID THAT MEAN TO YOU THAT HE WAS THE TRUSTEE?

2 A. I WAS NOT REALLY SURE AT THAT -- SURE AT THAT TIME.

3 Q. OKAY. AND WHAT ABOUT CHARLES MAHER?

4 A. I WAS NOT SURE WHO HE WAS AT THAT TIME.

5 Q. AND WHAT WAS YOUR GOAL IN THE ADVERSARY PROCEEDING?

6 A. TO KEEP MY HOME.

7 Q. DID YOU BELIEVE THAT YOU OWED THE ESTATE ANY MONEY?

8 A. NO.

9 Q. WHY NOT?

10 A. BECAUSE I WAS NOT INVOLVED IN THE BANKRUPTCY AND THE  
11 PAYMENTS WERE BEING MADE AT THAT TIME.

12 Q. DID YOU -- WHAT, IF ANY, DECISIONS DID YOU MAKE ABOUT  
13 WHETHER TO OFFER THE ESTATE MONEY?

14 A. BASED ON WORKING WITH THE ATTORNEY AND JUST HAVING THE  
15 DISCUSSION WITH MY FATHER AND MOTHER.

16 Q. LET ME REPHRASE THAT.

17 A. OKAY.

18 Q. DID YOU DECIDE TO GIVE THE ESTATE MONEY?

19 A. YES, I DID.

20 Q. OKAY. AND DID YOU AUTHORIZE YOUR ATTORNEY TO MAKE AN  
21 OFFER?

22 A. YES, I DID.

23 Q. FOR HOW MUCH?

24 A. 75,000.

25 Q. AND DID YOU BELIEVE THAT THAT WOULD BE THE FINAL PRICE

HOLMES DIRECT

1 THAT THE ESTATE WOULD SETTLE FOR?

2 MR. FAZIOLI: OBJECTION, LEADING.

3 THE COURT: SUSTAINED.

4 BY MS. GARRIDO:

5 Q. WHAT, IF ANYTHING, DID YOU BELIEVE ABOUT WHAT THE ULTIMATE  
6 SETTLE PRICE WOULD BE?

7 A. I BELIEVED IT WOULD BE \$75,000.

8 Q. WHAT, IF ANYTHING, DID YOU BELIEVE ABOUT WHETHER OR NOT  
9 THERE WAS A SETTLEMENT THAT WAS GOING TO HAPPEN?

10 A. I BELIEVED THAT THERE WAS A SETTLEMENT THAT WAS GOING TO  
11 HAPPEN.

12 Q. HOW QUICKLY DID YOU THINK IT WOULD HAPPEN?

13 A. I DON'T RECALL. TO ME IMMEDIATELY WE WERE IN  
14 NEGOTIATIONS.

15 Q. DID YOU HAVE \$75,000 ON HAND?

16 A. NOT AT THAT MOMENT.

17 Q. DID YOU HAVE ANY IDEAS ABOUT HOW TO GET IT?

18 A. YES.

19 Q. AND HOW DID YOU FORMULATE THOSE IDEAS?

20 A. I BELIEVE THAT I WOULD BE ABLE TO REFINANCE MY HOME.

21 Q. OKAY. AND WHY DID YOU BELIEVE THAT?

22 A. BASED ON MY ATTORNEY AND ALSO MY FATHER.

23 Q. OKAY. AND I'M GOING TO ASK YOU ONLY ABOUT YOUR  
24 CONVERSATIONS WITH YOUR FATHER --

25 A. OKAY.

HOLMES DIRECT

1 Q. -- AND NOT YOUR ATTORNEY. WHAT CONVERSATION DID YOU HAVE  
2 WITH YOUR FATHER ABOUT REFINANCING?

3 A. HE LET ME KNOW THAT HE WAS SPEAKING WITH I GUESS HIS  
4 COUNSEL REGARDING IT; AND WE ALSO SHARED THAT I WAS SPEAKING  
5 WITH COUNSEL REGARDING IT. AND HE FELT THAT WE HAD PAID THE  
6 235 FOR THE HOUSE SO HE THOUGHT THAT MY ESTIMATE OF 75 WAS A  
7 BIT HIGHER THAN IT SHOULD BE.

8 Q. HOW MUCH HIGHER?

9 A. 25,000.

10 Q. AND HOW DID -- DID HE TELL YOU HOW HE CAME UP WITH THAT  
11 FIGURE?

12 A. YES.

13 Q. AND HOW -- WHAT DID HE TELL YOU?

14 A. FROM MY RECOLLECTION I BELIEVE THAT HE FELT THAT WE PAID  
15 235 FOR THE HOUSE AND I HAD PUT SOME WORK INTO THE HOUSE AND  
16 MAINTAINED THE HOUSE AND THERE WAS PROBABLY A \$5,000 DIFFERENCE  
17 BETWEEN THE 235 THAT WE PAID AND THE \$50,000 AND WE ONLY OWED  
18 180 OR AROUND 180, 179 TO 180 AT THE TIME OF THE NEGOTIATIONS.

19 Q. OKAY. SO DID HE PROVIDE YOU -- WHAT NUMBER, IF ANY, DID  
20 HE PROVIDE YOU WITH AS TO WHAT WAS A FAIR SETTLEMENT AMOUNT?

21 A. 50,000.

22 MR. FAZIOLI: YOUR HONOR, I THINK THIS IS GETTING  
23 INTO HEARSAY AND GETTING INTO SOME OF THE IN LIMINE TOPICS THAT  
24 THE COURT PREVIOUSLY TALKED ABOUT.

25 MS. GARRIDO: AND IT'S NOT OFFERED FOR THE TRUTH,

HOLMES DIRECT  
1 YOUR HONOR, BUT RATHER THE EFFECT ON MS. HOLMES AND THE INTENT.

2 THE COURT: SO, LADIES AND GENTLEMEN, THE WITNESS'S  
3 PREVIOUS ANSWER IS NOT OFFERED FOR THE TRUTH OF ANYTHING THAT  
4 WAS ASSERTED. IT'S SOLELY OFFERED FOR THE EFFECT, IF ANY, ON  
5 THE WITNESS.

6 AND AS TO THE TOPIC AREA, MR. FAZIOLI.

7 MR. FAZIOLI: COULD WE APPROACH BRIEFLY TO DISCUSS?

8 THE COURT: SURE.

9 (SIDE-BAR CONFERENCE ON THE RECORD.)

10 MR. FAZIOLI: YOUR HONOR, TWO AREAS. ONE IS THAT IT  
11 APPEARS THAT THERE HAS BEEN TESTIMONY ABOUT STATEMENTS THAT SHE  
12 HAD WITH HER COUNSEL, AND SHE'S GETTING INTO THE  
13 CLIENT-ATTORNEY COMMUNICATIONS THAT WE DISCUSSED AT LENGTH,  
14 NUMBER ONE; AND,

15 NUMBER TWO, IT SEEMS THAT THEY'RE GETTING DIRECTLY INTO  
16 THE STATEMENT THAT MR. PAIGE MADE TO HER AROUND THE TIME. IT  
17 HASN'T BEEN ESTABLISHED WHAT THE TIMEFRAME IS, BUT I'M ASSUMING  
18 THIS IS THE OCTOBER 2005 TIMEFRAME, THE TIMEFRAME THAT HE'S  
19 SUFFERING FROM DEMENTIA AND ALL OF THOSE ISSUES THAT WE TALKED  
20 ABOUT WERE, I JUST THINK THAT THEY'RE OPENING THE DOOR BY THIS  
21 LINE OF TESTIMONY AND ABOUT LEONARD PAIGE AND HOW SHE TOOK HIS  
22 ADVICE AND IN CONSULTATION WITH THE ATTORNEY GIVEN THE ATTORNEY  
23 SUBMITTED A SUBMISSION THAT SAID THAT THEY MIGHT HAVE TO SUE  
24 LEONARD PAIGE BECAUSE HE HAS DEMENTIA. I THINK THAT SEEMS TO  
25 BE THE DIRECTION THAT THEY'RE GOING AND BEFORE WE CONTINUE, I

HOLMES DIRECT

1 JUST WANTED TO RAISE IT TO THE COURT'S ATTENTION.

2 THE COURT: OKAY.

3 MS. LIE: WELL, I THINK AS FAR AS ANY STATEMENTS  
4 REGARDING COMMUNICATIONS WITH HER LAWYER, SHE HAS CERTAINLY NOT  
5 GIVEN ANY INDICATION ABOUT WHAT THE CONTENT AND SUBSTANCE OF  
6 THOSE COMMUNICATIONS WERE.

7 AND I THINK THAT IF MS. GARRIDO WERE PERMITTED TO LEAD  
8 SLIGHTLY, THEN WE COULD AVOID SOME OF THIS PROBLEM.

9 SEPARATELY, YOU KNOW, I THINK THE ISSUE OF WHERE THIS IS  
10 GOING AND THE COURT'S IN LIMINE RULINGS REGARDING DEMENTIA AND  
11 ALL OF THIS, YOU KNOW, I THINK THAT THE COURT IS GOING TO HAVE  
12 TO MAKE A RULING AS WE HAVE DISCUSSED AFTER MS. HOLMES HAS  
13 TESTIFIED ABOUT WHETHER WE OPENED THE DOOR AND TO WHAT.

14 BUT AS FAR AS THE GOVERNMENT'S HEARSAY OBJECTION, THIS IS  
15 OFFERED FOR THE EFFECT ON THE HEARER. WE WERE VERY UP-FRONT  
16 WITH THE COURT THAT WE WERE GOING TO BE SEEKING TO ADMIT THIS  
17 KIND OF INFORMATION TO THE EXTENT LEAVING ASIDE THE COURT'S  
18 RULING ABOUT HIS DECLARATION AND HIS STATEMENTS TO PEOPLE BY  
19 MR. PAIGE OUTSIDE OF MS. HOLMES.

20 WE DID INDICATE THAT IT WAS A STATEMENT MADE TO HER, THAT  
21 IT WAS SOMETHING IRRESPECTIVE OF ITS TRUTH, THAT IT WAS  
22 RELEVANT TO HER INTENT OR LACK OF INTENT TO DEFRAUD.

23 THE COURT: SO I THINK THERE WAS SOME, REGARDING THE  
24 ATTORNEY'S QUESTIONS, I THINK MS. GARRIDO SUGGESTED THAT SHE  
25 WAS NOT ASKING ABOUT THOSE. I SUPPOSE AN INFERENCE CAN BE

HOLMES DIRECT

1 DRAWN THAT SOME OF THE COMMUNICATIONS AND ANSWERS THAT  
2 MS. HOLMES GAVE WERE DERIVED FROM THE ATTORNEY CONVERSATION,  
3 ALTHOUGH IT WASN'T SPECIFIC.

4 SO I APPRECIATE THAT YOU'RE MOVING AWAY FROM THAT, SO  
5 THAT'S NOT GOING TO BE AN ISSUE ANY MORE, BUT IF IT DOES COME  
6 UP, IT MAY, IT MAY INTRODUCE OTHER REASONS TO ALLOW FURTHER  
7 INQUIRY.

8 IN REGARDS TO MR. PAIGE AND HIS DECLARATIONS, I HAVE  
9 ALREADY TOLD THE JURY THAT IT'S NOT OFFERED FOR THE TRUTH OF  
10 THE MATTER ASSERTED BUT FOR ANY IMPACT AT ALL ON THE WITNESS.

11 IF WE GET CLOSER TO WHETHER OR NOT ANY OF THOSE ISSUES ARE  
12 GOING TO COME IN, WE'RE GETTING CLOSE, I SUPPOSE, SO IT DEPENDS  
13 ON, I GUESS, THE NATURE OF THE QUESTIONS.

14 AND AS I SAID AT THE LAST BREAK, I DO AND WILL ALLOW SOME  
15 CONTEXT AND THE ATTORNEYS TO PLACE THIS IN CONTEXT WITH THE  
16 LATITUDE, I SUPPOSE, IF THAT'S WHAT YOU'RE TRYING TO KEEP AWAY  
17 FROM AND TO BE MINDFUL OF THE COURT'S RULINGS, IN LIMINE  
18 RULINGS IF THAT'S WHAT YOU'RE TRYING TO DO.

19 BUT I DON'T WANT TO STOP YOU FROM DOING THAT, BUT I'LL  
20 GIVE YOU SOME LATITUDE BUT, OF COURSE, YOU CAN'T LEAD ON OTHER  
21 TOPICS.

22 BUT WE TALKED ABOUT THIS IN LIMINE AND THIS IS ALWAYS THE  
23 ELEPHANT IN THE ROOM. IF THERE IS, YOU KNOW, SOME TYPE OF --  
24 IF YOU'RE GOING TO PROBE AROUND THAT AREA, THEN THAT'S THE  
25 DANGER IS IF THE ISSUE IS GOING TO BE RAISED AT THE TIME THAT



HOLMES DIRECT

1 MR. PAIGE SAID THIS AND HIS COMPETENCY COMES IN THEN THAT COULD  
2 OPEN THE DOOR FOR OTHER INQUIRY.

3 SO I'M JUST SAYING THAT NOW TO ADVISE ALL COUNSEL TO  
4 PROCEED AS YOU WISH I SUPPOSE. I CAN'T TELL YOU HOW TO  
5 PROCEED.

6 MR. FAZIOLI: THANK YOU.

7 MS. GARRIDO: THANK YOU.

8 THE COURT: THANK YOU, COUNSEL.

9 (END OF DISCUSSION AT SIDEBAR.)

10 BY MS. GARRIDO:

11 Q. MS. HOLMES, DO YOU RECALL WHEN IT WAS THAT YOU MADE AN  
12 OFFER FOR \$75,000?

13 A. NO, I DON'T EXACTLY RECALL WHEN.

14 Q. OKAY. DO YOU THINK IT MIGHT REFRESH YOUR RECOLLECTION TO  
15 LOOK AT A DOCUMENT THAT WAS WRITTEN BY YOUR LAWYER?

16 A. YES, MA'AM.

17 Q. OKAY. AND IF YOU WOULD REFER TO GOVERNMENT'S EXHIBIT 184.

18 A. IT APPEARS FROM THIS DOCUMENT AROUND OCTOBER 7TH.

19 Q. LET ME STOP YOU THERE.

20 A. OKAY.

21 Q. HAVING HAD A CHANCE TO REVIEW GOVERNMENT'S EXHIBIT 184, IS  
22 YOUR MEMORY OF WHEN YOU MADE THE OFFER REFRESHED?

23 A. YES.

24 Q. AND WHEN DID YOU MAKE THE OFFER?

25 A. OCTOBER 7TH OR 6TH.

HOLMES DIRECT

1 Q. OF WHAT YEAR?

2 A. 2005.

3 Q. DID YOU SAY OR 6TH?

4 A. I'M JUST -- THIS IS WHEN THIS LETTER WENT OUT. SO AROUND  
5 THAT TIME OR EARLIER.

6 Q. AND THE CONVERSATION THAT YOU HAD WITH YOUR FATHER ABOUT  
7 \$50,000, WAS THAT BEFORE OR AFTER YOU MADE THE OFFER FOR  
8 \$75,000?

9 A. TO MY RECOLLECTION IT WAS EARLIER.

10 Q. OKAY. WHAT WAS EARLIER, THE \$75,000 OFFER OR THE  
11 CONVERSATION WITH YOUR FATHER?

12 A. MY CONVERSATION WITH MY FATHER.

13 Q. ABOUT HOW MUCH EARLIER?

14 A. WITHIN THE SEPTEMBER OR MONTH OR SO EARLIER TO MY  
15 RECOLLECTION.

16 Q. DID YOU THINK THAT THERE WAS ANYTHING WRONG WITH GETTING A  
17 REFINANCE?

18 A. NO, I DID NOT.

19 Q. AND WHAT DID YOU INTEND -- WHAT, IF ANYTHING, DID YOU  
20 INTEND TO DO WITH PROCEEDS FROM A REFINANCE?

21 A. I INTENDED -- I EXPECTED TO SETTLE THE NEGOTIATION.

22 Q. HOW DID YOU GO ABOUT GETTING A REFINANCE?

23 A. I WENT OUT AND LEARNED FROM MY NEPHEW REGARDING THE  
24 MORTGAGE COMPANY. I HAD NEVER DID A REFINANCE.

25 Q. OKAY. AND DID YOU GET A REFERRAL?

HOLMES DIRECT

1 A. YES.

2 Q. FOR WHO?

3 A. FOR OAKLAND FUNDING.

4 Q. OKAY. AND WAS THERE ANY PARTICULAR INDIVIDUAL THAT YOU  
5 WERE REFERRED TO OR JUST THE COMPANY?

6 A. VITA GETER.

7 Q. AND DO YOU KNOW WHETHER OR NOT YOUR FATHER SPOKE WITH VITA  
8 GETER?

9 A. YES.

10 Q. AND WHAT DO YOU KNOW ABOUT THAT?

11 A. I -- FROM WHAT MY RECOLLECTION HE UNDERSTOOD THAT -- WE  
12 BOTH UNDERSTOOD THAT WE NEEDED TO PAY OFF THIS THING AND HE  
13 REQUESTED FOR ME TO FIGURE OUT IF I KNEW A LENDER OR WHATEVER  
14 AND THEN WE BOTH PROVIDED, TO MY RECOLLECTION, INFORMATION.

15 Q. OKAY. NOW, YOU SPOKE WITH VITA GETER DIRECTLY; IS THAT  
16 FAIR TO SAY?

17 A. YES.

18 Q. OKAY. AND DO YOU KNOW HOW MANY TIMES?

19 A. I'M NOT EXACTLY SURE, BUT I WOULD SAY AT LEAST THREE TO  
20 SIX TIMES.

21 Q. WAS SHE THE ONLY PERSON AT OAKLAND FUNDING GROUP THAT YOU  
22 DEALT WITH?

23 A. I DON'T REALLY RECALL EXACTLY IF IT WAS VITA ALL OF THE  
24 TIME OR MAYBE HER ASSISTANT AT SOME POINT IN TIME CALLED.

25 Q. OKAY. THE FIRST CONVERSATION -- DO YOU RECALL THE FIRST

HOLMES DIRECT

1 CONVERSATION THAT YOU HAD WITH VITA GETER?

2 A. IN SOME RESPECTS.

3 Q. OKAY. WAS THAT IN PERSON? ON THE PHONE? HOW DID YOU  
4 TALK WITH HER?

5 A. ON THE PHONE.

6 Q. AND DID YOU PROVIDE ANY INFORMATION TO HER?

7 A. TO MY RECOLLECTION I DID.

8 Q. AND DO YOU RECALL WHAT INFORMATION YOU PROVIDED?

9 A. UM, I BELIEVE I GAVE HER MY NAME, THE ADDRESS OF MY  
10 PROPERTY, PROBABLY MY SOCIAL SECURITY NUMBER, DRIVER'S LICENSE  
11 NUMBER, AND MY OCCUPATION.

12 Q. AND WHAT DID YOU TELL HER ABOUT YOUR OCCUPATION?

13 A. I TOLD HER I WAS SELF-EMPLOYED.

14 Q. AND WHAT DID SHE -- DID YOU DISCUSS THAT FURTHER WITH HER?

15 A. TO MY RECOLLECTION SHE ASKED ME WHAT TYPE OF  
16 SELF-EMPLOYMENT I WAS AND WE DISCUSSED THAT.

17 Q. OKAY. AND WHAT DID YOU TELL HER?

18 A. I OWNED A PRIVATE PATROLLING GUARD SERVICE AND GAVE HER  
19 THE NAME OF IT.

20 Q. DID YOU GIVE HER ANY OTHER INFORMATION, LIKE A TAX  
21 IDENTIFICATION NUMBER OR LICENSE NUMBER OR ANYTHING LIKE THAT?

22 A. I DID. I DON'T KNOW IF IT WAS ON THE FIRST CALL OR THE  
23 SUBSEQUENT CALLS.

24 Q. AND WHAT WAS YOUR UNDERSTANDING ABOUT WHAT MS. GETER WAS  
25 GOING TO DO WITH THE INFORMATION THAT YOU WERE GIVING HER?

HOLMES DIRECT

1 A. SHE WAS GOING TO COMPILE THE INFORMATION, TO MY  
2 RECOLLECTION, AND GET BACK WITH ME TO SEE IF I QUALIFY.

3 Q. OKAY. WHAT WAS THE MAIN GOAL THAT YOU HAD WITH REGARD TO  
4 THE REFINANCE?

5 A. TO GET -- DO SOME -- THE MAIN GOAL WAS TO PAY OFF THE --  
6 PAY SECURITY OR CARRIE PAIGE, LEONARD PAIGE ESTATE AND TO DO  
7 SOME HOME REPAIRS.

8 Q. OKAY.

9 A. AND TO DO SOME THINGS FOR MYSELF.

10 Q. DID YOU DISCUSS THE TOTAL AMOUNT OF THE LOAN WITH  
11 MS. GETER?

12 A. NOT THAT I RECALL.

13 Q. AND WHAT DO YOU RECALL TALKING WITH HER ABOUT IN TERMS OF  
14 THE LOAN AMOUNT?

15 A. I RECALL HER TAKING INFORMATION AND LETTING ME KNOW THAT  
16 SHE WOULD RUN SOME NUMBERS AND GET BACK WITH ME.

17 Q. OKAY. AND DID YOU DISCUSS YOUR INCOME WITH HER?

18 A. NOT THAT I RECALL.

19 Q. DID YOU DISCUSS YOUR BANK ACCOUNT BALANCE WITH HER?

20 A. NOT THAT I RECALL.

21 Q. AND DID YOU DISCUSS YOUR BANK ACCOUNT NUMBER WITH HER?

22 A. I BELIEVE THAT SHE ASKED FOR THAT.

23 Q. DID YOU DISCUSS WITH HER WHETHER OR NOT YOU WERE A PARTY  
24 TO A LAWSUIT?

25 A. I DON'T REALLY RECALL DISCUSSING THAT WITH HER.

HOLMES DIRECT

1 Q. DID YOU BELIEVE AT THE TIME THAT YOU WERE A PARTY TO A  
2 LAWSUIT?

3 A. NO, MA'AM.

4 Q. DID YOU DISCUSS WITH HER THE VALUE OF THE HOME?

5 A. NO, MA'AM.

6 Q. DID YOU DISCUSS WITH HER THE REASON WHY YOU WANTED CASH?

7 A. I WOULD HAVE TO SAY, YES, I KNEW THAT I NEEDED TO -- I WAS  
8 IN NEGOTIATIONS AND I DIDN'T KNOW WHAT THAT WOULD BE AND ALSO  
9 THAT I NEEDED HOME REPAIR.

10 Q. AND YOU HAVE SEEN THE DOCUMENT, THE UNIFORM RESIDENTIAL  
11 LOAN APPLICATION THAT WAS DATED OCTOBER 15TH, 2005?

12 A. YES.

13 Q. AND DID YOU SIGN THAT APPLICATION?

14 A. YES.

15 Q. AND DID YOU READ IT BEFORE SIGNING IT?

16 A. I DON'T RECALL IF I DID.

17 Q. WHY NOT?

18 A. I KNEW MY FATHER WAS INVOLVED IN ONE WAY WITH IT AND I  
19 DON'T NORMALLY READ APPLICATIONS. I'VE LEARNED THAT I NEED TO  
20 PAY CLOSER ATTENTION.

21 Q. DID YOU HAVE ANY REASON TO BELIEVE THAT MS. GETER DIDN'T  
22 PREPARE YOUR PAPERWORK CORRECTLY?

23 A. NO. I TRUSTED IN LETTER HER.

24 Q. IF YOU HAD NOTICED ANY ERRORS, WOULD YOU HAVE BROUGHT THEM  
25 TO MS. GETER'S ATTENTION?

HOLMES DIRECT

1 A. MOST DEFINITELY.

2 Q. DID YOU NOTICE THAT THE LOAN APPLICATION AS BEING MAILED?

3 A. NO, MA'AM.

4 Q. AND IF YOU HAD NOTICED THAT, WOULD YOU HAVE BROUGHT IT TO  
5 HER ATTENTION?

6 A. YES, DEFINITELY.

7 Q. AND IF YOU HAD NOTICED THAT IT STATED YOUR INCOME AS  
8 \$15,000 A MONTH, WOULD YOU HAVE BROUGHT THAT TO HER ATTENTION?

9 A. YES, MA'AM.

10 Q. IF YOU HAD NOTICED THAT IT STATED YOUR BANK ACCOUNT  
11 BALANCE AS \$15,000, WOULD YOU HAVE BROUGHT THAT TO HER  
12 ATTENTION?

13 MR. FAZIOLI: YOUR HONOR, THESE ARE LEADING  
14 QUESTIONS.

15 THE COURT: THEY ARE LEADING QUESTIONS. ARE YOU  
16 ABOUT FINISHED WITH THEM?

17 MS. GARRIDO: I HAVE ONE MORE.

18 THE COURT: WHY DON'T YOU ASK YOUR NEXT QUESTION.

19 MS. GARRIDO: OKAY.

20 Q. MS. HOLMES, IF YOU HAD NOTICED ON THE APPLICATION THAT  
21 YOUR BANK ACCOUNT NUMBER WAS INCORRECT, WOULD YOU HAVE BROUGHT  
22 IT TO MS. GETER'S ATTENTION?

23 A. YES, MA'AM.

24 Q. NOW, WHEN YOU SIGNED THAT APPLICATION, DID YOU HAVE INTENT  
25 TO DEFRAUD THE BANKRUPTCY ESTATE?

HOLMES DIRECT

1 A. NO, MA'AM.

2 Q. DID YOU HAVE INTENT TO DEFRAUD WORLD SAVINGS BANK?

3 A. NO, MA'AM.

4 Q. DID YOU BELIEVE THAT ANYTHING YOU WERE DOING WAS ILLEGAL?

5 A. NO, MA'AM.

6 Q. AT SOME POINT DID MS. GETER ASK YOU FOR A LETTER?

7 A. YES, MA'AM.

8 Q. AND WHAT DID SHE ASK YOU FOR?

9 A. INFORMATION REGARDING, TO MY RECOLLECTION, WHY I NEEDED  
10 THE MONEY.

11 Q. AND DID YOU WRITE ONE?

12 A. YES, I DID.

13 Q. DID ANYONE HELP YOU DRAFT THAT?

14 A. TO MY RECOLLECTION MS. GETER LET ME KNOW WHAT I NEEDED TO  
15 STATE AND I DRAFTED IT AND SIGNED IT.

16 Q. AND THE FIRST LETTER THAT WAS DATED OCTOBER 6TH, 2005, DID  
17 YOU SIGN THAT?

18 A. CAN I SEE THAT LETTER?

19 Q. SURE. MY APOLOGIES FOR THE BREAK WHILE WE FOUND THAT.

20 CAN YOU REFER TO GOVERNMENT'S EXHIBIT 28. IT'S IN BINDER  
21 2 OF 5.

22 AND IF YOU'LL LOOK AT THE THIRD PAGE WITHIN EXHIBIT 28.  
23 IS THAT THE LETTER THAT YOU WROTE IN RESPONSE TO MS. GETER'S  
24 REQUEST?

25 A. YES, MA'AM.



HOLMES DIRECT

1 Q. AND DID YOU SIGN THAT?

2 A. YES, I DID.

3 Q. IS THAT YOUR SIGNATURE ON IT?

4 A. YES, I DID.

5 Q. OKAY. AND TURNING TO THE SECOND PAGE OF THAT EXHIBIT, THE  
6 LETTER DATED NOVEMBER 9TH, 2005, DID YOU WRITE THAT LETTER?

7 A. YES, I DID.

8 Q. AND WHY DID YOU WRITE THAT?

9 A. IT WAS FROM MY RECOLLECTION ANOTHER REQUEST FROM OAKLAND  
10 FUNDING.

11 Q. AND --

12 A. -- OR VITA GETER.

13 Q. AND DOES THIS LETTER NOW HAVE A SPECIFIC DOLLAR AMOUNT?

14 A. YES, IT DOES.

15 Q. AND WHAT IS THAT DOLLAR AMOUNT?

16 A. \$50,000.

17 Q. AND WHERE DID THAT NUMBER COME FROM?

18 A. MY FATHER.

19 Q. WHAT, IF ANYTHING, WAS YOUR UNDERSTANDING AT THE TIME YOU  
20 WROTE THAT AS TO WHAT YOU WERE ABOUT TO SETTLE WITH -- SETTLE  
21 FOR WITH THE ESTATE?

22 A. MY COUNSEL --

23 Q. LET ME STOP YOU THERE. I'M NOT GOING TO ASK YOU ABOUT  
24 YOUR CONVERSATIONS WITH COUNSEL?

25 A. OKAY.

HOLMES DIRECT

1 Q. AND SO ANSWER FROM YOUR OWN RECOLLECTION AND NOT BASED ON  
2 YOUR CONVERSATIONS WITH YOUR COUNSEL.

3 A. OKAY.

4 Q. IF YOU CAN?

5 A. WAS THAT --

6 Q. LET ME ASK YOU AGAIN.

7 A. OKAY.

8 Q. WHAT, IF ANYTHING, WAS YOUR UNDERSTANDING AT THAT POINT  
9 ABOUT WHY -- WHAT AMOUNT YOU WERE GOING TO SETTLE FOR WITH THE  
10 ESTATE?

11 A. BASED ON MY RECOLLECTION WITH MY FATHER, HE BELIEVED THAT  
12 THE SETTLEMENT WOULD BE \$50,000.

13 Q. NOW, DID YOU, DID YOU SIGN A FINAL LOAN PACKAGE?

14 A. YES, I DID.

15 Q. OKAY. AND WHERE DID THAT TAKE PLACE?

16 A. TO MY RECOLLECTION IT TOOK PLACE AT P.F. CHANGS.

17 Q. AND WHERE?

18 A. IN STAN -- CLOSE TO STANFORD.

19 Q. DID YOU PICK THAT LOCATION?

20 A. NO.

21 Q. AND WHO PICKED THAT LOCATION, IF YOU RECALL?

22 A. MY PARENTS.

23 Q. AND DID YOU PICK UP THE DOCUMENTS?

24 A. NO, MA'AM.

25 Q. AND DO YOU RECALL WHO PICKED UP THE DOCUMENTS?

HOLMES DIRECT

1 A. I BELIEVE CECILEE JOHNSON PICKED THEM UP.

2 Q. AND WHO IS CECILEE JOHNSON?

3 A. CECILEE JOHNSON IS MY NIECE.

4 Q. AND WHAT WAS HER ROLE IN THIS PACKAGE SIGNING?

5 A. SHE WAS A CERTIFIED NOTARY.

6 Q. OKAY. AND WHO WAS PRESENT?

7 A. I CAN RECALL MY MOTHER AND MY FATHER, I BELIEVE ALL OF MY  
8 SISTERS, SOME OF MY NIECES AND NEPHEWS.

9 Q. DO YOU RECALL APPROXIMATELY HOW MANY PEOPLE IN TOTAL?

10 A. NOT EXACTLY. AT LEAST EIGHT TO TEN OR MORE.

11 Q. OKAY. AND WHAT WAS THE GENERAL MOOD OF THE DINNER?

12 A. AS I RECALL IT WAS A GOOD DAY.

13 Q. OKAY. DID ANYONE ASK YOU TO SIGN DOCUMENTS?

14 A. YES.

15 Q. AND WHO?

16 A. CECILEE JOHNSON.

17 Q. AND HOW DID SHE GO ABOUT THAT?

18 A. FROM MY RECOLLECTION THERE WERE TABS WITH SIGNATURE MARKS  
19 ON THEM AND SHE JUST SAID SIGN HERE, SIGN HERE, SIGN HERE, SIGN  
20 HERE.

21 Q. OKAY. DID YOU NOTICE WHETHER YOUR FATHER ALSO SIGNED  
22 DOCUMENTS?

23 A. TO MY RECOLLECTION HE DID.

24 Q. OKAY. AND DID YOU SIGN WHEREVER CECILEE TOLD YOU TO SIGN?

25 A. TO MY RECOLLECTION.

HOLMES DIRECT

1 Q. DID YOU READ THOSE DOCUMENTS THAT YOU WERE SIGNING?

2 A. I DON'T RECALL THAT I DID.

3 Q. AND WHAT WAS YOUR UNDERSTANDING, IF ANY, ABOUT WHAT THOSE  
4 DOCUMENTS WERE THAT YOU WERE SIGNING?

5 A. I UNDERSTOOD THAT I WAS SIGNING FOR A REFINANCE OF 312  
6 MOONRACKER, MY HOME.

7 Q. DID YOU KNOW WHETHER OR NOT THERE WAS A GRANT DEED  
8 INCLUDED IN THAT PACKAGE?

9 A. I DON'T RECALL.

10 Q. DID YOU HAVE ANY CONVERSATION WITH YOUR FATHER ABOUT A  
11 GRANT DEED?

12 A. NO.

13 Q. AT THE TIME WHEN YOU SIGNED THOSE DOCUMENTS, DID -- WHAT,  
14 IF ANY, BELIEF DID YOU HAVE ABOUT WHETHER YOU WERE TAKING THE  
15 MONEY OF THE ESTATE?

16 A. COULD YOU REASK THAT QUESTION, PLEASE.

17 Q. SURE. DID YOU HAVE ANY BELIEF AS TO WHETHER YOU WERE  
18 TAKING ANY OF THE ESTATE'S MONEY BY REFINANCING?

19 A. NO, I DIDN'T BELIEVE THAT I WAS.

20 Q. AND WHY DID YOU BELIEVE THAT YOU WEREN'T TAKING THE  
21 ESTATE'S MONEY?

22 A. JUST BASED ON THE APPRAISAL. I DO BELIEVE THAT I OWED  
23 THIS THAT THROUGH NEGOTIATION I WOULD HAVE TO GIVE THEM SOME  
24 MONEY. SO, YES, I DID BELIEVE THEM.

25 Q. OKAY. AND THAT WAS A LITTLE CONFUSING?

HOLMES DIRECT

1 A. YEAH, I DON'T REALLY UNDERSTAND WHAT YOU MEANT.

2 Q. YOU JUST MENTIONED THE APPRAISAL?

3 A. UH-HUH.

4 Q. AT SOME POINT DID YOU BECOME AWARE OF A MARKET VALUE FOR  
5 YOUR HOME?

6 A. ONLY WHAT VITA GETER HAD EXPRESSED.

7 Q. OKAY. AND WHAT DID SHE TELL YOU?

8 A. THAT A PERSON HAD COME OUT -- SHE HAD SENT AN APPRAISER TO  
9 MY HOME.

10 Q. OKAY. AND WHAT DID SHE TELL YOU ABOUT HOW MUCH IT WAS?

11 A. I DON'T RECALL EXACTLY.

12 Q. OKAY. DID YOU AND SHE HAVE ANY MORE DISCUSSIONS? DID YOU  
13 TALK FURTHER ABOUT THE EQUITY THAT WAS STILL IN THE HOME?

14 A. YES.

15 Q. AND WHAT CONVERSATIONS DID YOU HAVE?

16 A. FROM WHAT I RECALL.

17 Q. AND WHAT DID YOU DISCUSS?

18 A. SHE LET ME KNOW THAT THERE WAS A LOT MORE EQUITY IN THE  
19 HOUSE.

20 Q. AND DID YOU HAVE ANY DISCUSSIONS WITH HER ABOUT HOW TO  
21 ACCESS THAT ADDITIONAL EQUITY?

22 A. FROM WHAT I RECALL SHE TOLD ME AT THE TIME THAT, AND THIS  
23 IS FROM RECOLLECTION, THAT YOU COULD REFINANCE A HOME EVERY  
24 SIX MONTHS WITHIN ONE OF OUR CONVERSATIONS.

25 Q. NOW, AT SOME POINT THE FUNDS FROM THE RESENTENCE REACHED

HOLMES DIRECT  
1 YOUR ACCOUNT?

2 A. YES, MA'AM.

3 Q. OKAY. AND, NOW, AT THAT TIME DID YOU CONSIDER -- WELL,  
4 WOULD YOU NOW CONSIDER YOURSELF TO HAVE BEEN FINANCIALLY  
5 RESPONSIBLE AT THAT TIME?

6 A. NO, MA'AM.

7 Q. OKAY. HAD YOUR FATHER HISTORICALLY BEEN INVOLVED IN YOUR  
8 FINANCES?

9 A. YES.

10 Q. WERE YOU FINANCIALLY DEPENDENT ON HIM INTO ADULTHOOD?

11 A. YES.

12 Q. AROUND THE TIME PERIOD END OF 2005, HAD YOU EVER BALANCED  
13 YOUR CHECKBOOK?

14 A. I NEVER WAS A -- NO. NO.

15 Q. OKAY. DID YOU REGULARLY KEEP TRACK OF YOUR ACCOUNT  
16 BALANCE?

17 A. NO.

18 Q. AND DID YOU MAINTAIN SAVINGS?

19 A. NO. I LIVED FROM PAYCHECK TO PAYCHECK.

20 Q. AND DID YOU INVEST IN RETIREMENT?

21 A. ONLY WHAT YOU SAW WITH THE GOVERNMENT FOR THEM.

22 Q. AND -- BUT THEN YOU TOOK THAT OUT?

23 A. YEAH, I TOOK THAT OUT.

24 Q. AND HAD YOU -- HAD YOU RACKED UP SOME DEBT BEFORE YOU  
25 REFINANCED?

HOLMES DIRECT

1 A. YES.

2 Q. NOW, THE GOVERNMENT HAS INTRODUCED QUITE A BIT OF EVIDENCE  
3 REGARDING THE CREDITORS THAT WERE PAID OFF WITH THE PROCEEDS  
4 FROM THE REFINANCE.

5 DID THAT HAPPEN AT YOUR REQUEST?

6 A. I DON'T RECALL. I THINK IT WAS MORE A PART OF THE  
7 REFINANCING.

8 Q. OKAY. AND BY PART OF THE REFINANCING, WHAT DO YOU MEAN BY  
9 THAT?

10 A. SPEAKING WITH VITA G. LETTING ME KNOW THE QUALIFICATIONS  
11 THAT I WOULD HAVE TO MEET.

12 Q. OKAY. A CONDITION OF THE LOAN?

13 A. YES.

14 Q. WHY DID YOU GET INVOLVED PERSONALLY WITH THE REPAYMENT OF  
15 YOUR CREDITORS?

16 A. BECAUSE UPON -- AND I'M NOT SURE WHO IT WAS AT OAKLAND  
17 FUNDING LETTING ME KNOW IF YOU COULD SELL, PLEASE DO THAT, AND  
18 THAT WOULD ASSIST WITH THE PROCEEDS.

19 Q. OKAY. NOW, AFTER YOU RECEIVED THE PROCEEDS, DID YOU OPEN  
20 ANY ADDITIONAL BANK ACCOUNTS?

21 A. YES, I DID.

22 Q. AND WHY DID YOU DO THAT?

23 A. BECAUSE I DID NOT HAVE REALLY GAINFUL EMPLOYMENT BEFORE  
24 THIS MONEY AND I OPENED UP A PERSONAL CHECKING I RECALL AND TWO  
25 SAVINGS ON MY ATTEMPT TO TRY AND CONTROL MY MONEY.

HOLMES DIRECT

1 Q. OKAY. HAD YOU EVER HAD THAT MUCH MONEY BEFORE?

2 A. NO, MA'AM, NEVER, EVER.

3 Q. AND HAD YOU EVER EVEN HAD EVEN CLOSE TO THAT MUCH MONEY  
4 BEFORE?

5 A. NO, MA'AM.

6 Q. THERE WAS A TRANSFER THAT WAS BROUGHT UP THROUGHOUT THIS  
7 TRIAL WHERE THE BULK OF THE REMAINING MONEY FROM THE REFINANCE  
8 WAS MOVED INTO YOUR PERSONAL ACCOUNT?

9 A. YES, MA'AM.

10 Q. AND DID YOU DO THAT?

11 A. YES, I DID.

12 Q. AND WHY DID YOU DO THAT?

13 A. BECAUSE I -- IF -- I FELT THAT IT BELONGED TO MY PERSONAL  
14 ACCOUNT RATHER THAN MY BUSINESS ACCOUNT --

15 Q. OKAY. NOW, AS SOON AS YOU GOT THOSE FUNDS, DID YOU BEGIN  
16 SPENDING THEM?

17 A. YES, I DID.

18 Q. DID YOU GO TO THE CASINO?

19 A. YES, I DID.

20 Q. AND DID YOU GAMBLE?

21 A. YES, I DID.

22 Q. AND DID YOU SHOP?

23 A. YES, I DID.

24 Q. HOW LONG HAD YOU BEEN GAMBLING?

25 A. EVERY NOW AND THEN I WOULD GAMBLE. I DIDN'T REALLY HAVE



HOLMES DIRECT

1 MUCH MONEY TO GAMBLE WITH SO EVERY NOW AND THEN I WOULD GAMBLE  
2 AT DIFFERENT LOCATIONS AND THROUGHOUT THE TRAVELLING IN  
3 SECURITY EVERY NOW AND THEN BUT NOT A GREAT DEAL. IT WASN'T --  
4 I DIDN'T HAVE MONEY TO DO IT WITH.

5 Q. OKAY. WELL, "EVERY NOW AND THEN" CAN MEAN DIFFERENT  
6 THINGS TO DIFFERENT PEOPLE.

7 A. UH-HUH.

8 Q. SO FOR YOU, WERE YOU GOING ONCE A MONTH? TWICE A MONTH,  
9 MORE? LESS?

10 A. I WAS GOING QUITE A BIT ONCE I RECEIVED THE MONEY.  
11 ACTUALLY LOOKING AT IT, IT'S SHAMEFUL AND TERRIBLE. I WAS VERY  
12 IRRESPONSIBLE.

13 Q. AND GENERALLY WHEN YOU WOULD GO GAMBLING, WHO WOULD YOU GO  
14 WITH?

15 A. SOMETIMES MY PARENTS, SOMETIMES MY SISTERS, AND SOMETIMES  
16 WITH FRIENDS, AND BY MYSELF SOMETIMES.

17 Q. AND IF YOU WON MONEY, WOULD YOU SHARE IT WITH THEM?

18 A. YES.

19 Q. AND AFTER YOU RECEIVED THE PROCEEDS FROM THE REFINANCE,  
20 WOULD YOU TAKE IT OUT AND SHARE IT WITH ANYONE?

21 A. YES.

22 Q. AND DOES THAT INCLUDE YOUR FATHER?

23 A. YES.

24 Q. WAS THERE ANY PARTICULAR DATE THAT YOU COULD TELL THAT YOU  
25 WERE AT THE CASINOS WITH YOUR FATHER?

HOLMES DIRECT

1 A. I CAN RECALL A FEW TIMES, BUT I DO RECALL AROUND HIS  
2 BIRTHDAY IN FEBRUARY I KNOW.

3 Q. OKAY. WHAT DATE WAS THAT?

4 A. HIS BIRTHDAY IS FEBRUARY 17TH, AND THERE WERE OTHER  
5 OCCASIONS. I DON'T QUITE RECALL THE DATES OF EACH ONE.

6 Q. AND DO YOU HAVE ANY BELIEF NOW ABOUT WHETHER OR NOT YOU  
7 HAD A PROBLEM WITH GAMBLING AT THE TIME?

8 A. I DO -- I DEFINITELY HAD A PROBLEM WITH GAMBLING AT THE  
9 TIME AND IT'S SHAMEFUL. IT'S VERY HARD TO EVEN LOOK AT AND  
10 SEE. I'M VERY REMORSEFUL FOR IT.

11 Q. WHAT ABOUT SHOPPING?

12 A. SHOPPING? I HAD A PROBLEM WITH THAT, TOO.

13 Q. DO YOU FEEL NOW THAT YOU HAD CONTROL OVER YOUR SPENDING AT  
14 THE TIME?

15 A. NOT AT THE TIME.

16 Q. AND WHAT -- WHY WERE YOU GAMBLING AND SHOPPING SO MUCH?

17 A. I -- LOOKING BACK ON IT NOW I FEEL THAT I WAS VERY  
18 STRESSED OUT AFTER BEING LAID OFF IN 2002, LOOKING AT THE JOB  
19 MARKET AND TRYING TO GET JOBS AND WORKING PART-TIME RECRUITING,  
20 AND, UM, THE THINGS THAT MY PARENTS WERE GOING THROUGH THAT I  
21 WAS NOT TOTALLY CLEAR OF. JUST STRESSES IN LIFE. I HAD GIVEN  
22 UP A GOOD GOVERNMENT JOB TO GO TO PAIGE SECURITY AND IT'S  
23 SHAMEFUL.

24 Q. AND WHAT DID THE GAMBLING AND SHOPPING DO FOR YOUR STRESS?

25 A. GAMBLING MADE ME FEEL LIKE MAYBE I COULD REACH THAT BIG

AMOUNT THAT I COULD LIVE ON AND HELP MY SON AND MY  
GRANDDAUGHTER AND HELP MY FAMILY.

Q. AND WHAT ABOUT SHOPPING?

A. SHOPPING JUST GAVE ME A RELIEF FOR A FEW MOMENTS.

Q. NOW, AS YOU WERE, I THINK IT COULD FAIRLY BE SAID, BURNING  
THROUGH THE PROCEEDS OF THE REFINANCE, WERE YOU CHECKING YOUR  
BALANCE?

A. NO, I WAS NOT ON A NORMAL BASIS, NO. VERY IRRESPONSIBLE.

Q. AND WERE YOU KEEPING TRACK OF YOUR SPENDING?

A. NO.

Q. AT WHAT POINT DID YOU REALIZE THAT YOU WERE SPENDING THE  
ENTIRE PROCEEDS OF THE REFINANCE?

A. WHEN IT WAS GONE.

Q. DID YOU SET ANY PORTION OF IT ASIDE TO PAY OFF THE ESTATE?

A. NO.

Q. AND WHY NOT?

A. I BELIEVE THAT WHEN I STARTED GAMBLING THAT I FELT LIKE I  
COULD WIN THAT MILLION OR WHATEVER, AND I JUST WAS STRESSED  
OUT.

Q. DID YOU USE SOME OF THE PROCEEDS TO REPAIR THE HOME?

A. YES, I DID DO THAT RESPONSIBILITY.

Q. OKAY. BUT THE MAJORITY YOU SPENT ON GAMBLING AND SHOPPING  
EXPENSES IS IT FAIR TO SAY?

A. YES.

Q. WERE YOU SPENDING THAT MONEY FOR THE PURPOSE OF KEEPING IT

HOLMES DIRECT

1 FROM THE BANKRUPTCY ESTATE?

2 A. NO, MA'AM.

3 Q. DID YOU BELIEVE AT THE TIME THAT YOU WERE SPENDING THAT  
4 MONEY THAT YOU WERE DOING SOMETHING WRONG OR ILLEGAL?

5 A. NO, MA'AM.

6 Q. AFTER IT BECAME COMMON KNOWLEDGE THAT YOU HAD HAD  
7 REFINANCED YOUR HOME AND THAT THE TITLE WAS NOW IN YOUR NAME,  
8 THERE WAS A SECOND ADVERSARY PROCEEDING.

9 DO YOU RECALL THAT?

10 A. THERE WERE SO MANY LEGAL DOCUMENTS, I DON'T KNOW WHICH ONE  
11 AND WHAT YOU'RE TALKING ABOUT.

12 Q. OKAY. DID IT APPEAR THAT THE CHANCES OF SETTLING MIGHT BE  
13 AFFECTED?

14 A. YES.

15 Q. OKAY. HOW?

16 A. BECAUSE IT CONTINUED ON AND ON AND ON.

17 Q. OKAY. DID YOU CONTINUE NEGOTIATING?

18 A. YES.

19 Q. AND WERE THOSE NEGOTIATIONS IN GOOD FAITH?

20 A. YES, AS FAR AS I WAS CONCERNED.

21 Q. AND DID YOU HAVE ANY BELIEF ABOUT WHETHER YOU COULD STILL  
22 GET ADDITIONAL EQUITY OUT OF THE HOME TO PAY OFF THE ESTATE?

23 A. YES.

24 Q. AND WHAT DID YOU BELIEVE?

25 A. I BELIEVED THAT THERE WAS STILL MONEY IN THE HOME AND THAT

HOLMES CROSS

1 AFTER SIX MONTHS WITH PAYING OFF THE CREDIT AND THEN EVERYTHING  
2 THAT I WOULD HAVE A HIGHER CREDIT BALANCE AND I WOULD BE ABLE  
3 TO REFINANCE.

4 Q. THANK YOU, MS. HOLMES.

5 A. YOU'RE WELCOME.

6 THE COURT: LET'S TAKE OUR AFTERNOON RECESS. DO YOU  
7 HAVE CROSS-EXAMINATION?

8 MR. FAZIOLI: I DO, YOUR HONOR.

9 THE COURT: LET'S TAKE OUR AFTERNOON RECESS.

10 (RECESS FROM 2:46 P.M. UNTIL 3:03 P.M.)

11 THE COURT: WE'RE BACK ON THE RECORD. OUR JURY IS  
12 PRESENT AND COUNSEL ARE PRESENT. MS. HOLMES IS ON THE STAND.

13 DO YOU HAVE CROSS-EXAMINATION, MR. FAZIOLI?

14 MR. FAZIOLI: WE DO, YOUR HONOR.

15 THE COURT: YES, GO RIGHT AHEAD.

16 **CROSS-EXAMINATION**

17 BY MR. FAZIOLI:

18 Q. GOOD AFTERNOON, MS. HOLMES.

19 A. GOOD AFTERNOON.

20 Q. PREVIOUSLY -- I THINK IT WAS ACTUALLY YESTERDAY, YOU HEARD  
21 TESTIMONY, THERE WAS TESTIMONY FROM AN F.B.I. ANALYST NAMED  
22 JERRI JOHNSON. DO YOU RECALL THAT?

23 A. YES, I DO.

24 Q. AND THERE WERE A NUMBER OF CHARTS THAT WERE PRESENTED  
25 REGARDING SOME OF THE FINANCIAL ACTIVITIES IN THIS CASE. DO

HOLMES CROSS  
1 YOU RECALL THAT?

2 A. YES, I DO.

3 Q. AND I'M GOING TO ASK YOU A COUPLE OF QUESTIONS RELATED TO  
4 SOME OF THE INFORMATION IN THOSE CHARTS.

5 IF YOU COULD BRING UP EXHIBIT 230.

6 THE COURT: THAT'S IN BINDER 5 I THINK?

7 MR. FAZIOLI: I BELIEVE SO. IT SHOULD BE IN THE  
8 LAST BINDER.

9 Q. PLEASE TAKE A LOOK AT EXHIBIT 230 AND TAKE YOUR TIME.

10 A. I HAVE IT.

11 Q. HAVE YOU HAD AN OPPORTUNITY TO TAKE A LOOK AT EXHIBIT 230?

12 A. YES.

13 Q. AND, NOW, THERE WAS TESTIMONY YESTERDAY THAT EXHIBIT 230  
14 RELATES TO CERTAIN FINANCIAL DOCUMENTS THAT HAVE BEEN PRESENTED  
15 IN THIS CASE. SPECIFICALLY IT RELATES TO CERTAIN BANK  
16 ACCOUNTS, WESTAMERICA BANK ACCOUNTS; CORRECT?

17 A. YES.

18 Q. AND FOR THE TIME PERIOD THAT'S PUT FORWARD ON EXHIBIT 230,  
19 WHICH IS PRETTY MUCH FOR MOST OF 2005, YOU SEE THAT THERE ARE  
20 BLUE LINES; CORRECT?

21 A. YES.

22 Q. AND BARS AT THE BOTTOM. AND THAT THOSE BARS, THERE WAS  
23 TESTIMONY THAT THAT -- THAT THOSE BARS REFLECT THE TOTAL  
24 MONTHLY DEPOSITS ON YOUR BANK ACCOUNTS. DO YOU RECALL THAT?

25 A. YES, I DO.

HOLMES CROSS

1 Q. AND YOU HAVE NO REASON TO DISPUTE THE INFORMATION THAT IS  
2 ON THIS CHART, ON EXHIBIT 230; CORRECT?

3 A. NO, I DON'T.

4 Q. AND THAT THE BANK ACCOUNTS THAT THIS FINANCIAL ANALYSIS  
5 WAS TALKED ABOUT, THAT WAS DISCUSSED, MR. JOHNSON TALKED ABOUT  
6 AND THERE WAS OTHER TESTIMONY FROM OTHER WITNESSES, THOSE WERE  
7 BANK ACCOUNTS THAT YOU CONTROL; CORRECT?

8 A. YES, I DID.

9 Q. AND WHAT HAPPENED TO THE MONEY IN THOSE BANK ACCOUNTS WAS  
10 WHAT YOU DECIDED WOULD HAPPEN TO THOSE BANK ACCOUNTS; CORRECT?

11 A. YES.

12 Q. AND THERE WERE STATEMENTS THAT WERE MAILED IN CONNECTION  
13 WITH THOSE BANK ACCOUNTS; CORRECT?

14 A. WHAT DO YOU MEAN "STATEMENTS MAILED"?

15 Q. WELL, YOU HAD A VARIETY -- YOU HAD A WESTAMERICA BANK  
16 ACCOUNT; CORRECT?

17 A. YES.

18 Q. AND IT WAS DOING BUSINESS AS STAR PARTNERS; CORRECT?

19 A. YES.

20 Q. AND THAT WAS THE BUSINESS THAT YOU WERE AFFILIATED WITH;  
21 CORRECT?

22 A. YES.

23 Q. THE ONE YOU WERE THE CEO OF; CORRECT?

24 A. YES.

25 Q. AND AS PART OF HAVING A WESTAMERICA BANK ACCOUNT IN THE

HOLMES CROSS

1 NAME OF STAR PARTNERS, IS THAT WESTAMERICA WOULD MAIL YOU BANK  
2 STATEMENTS; CORRECT?

3 A. BANK STATEMENTS.

4 Q. CORRECT?

5 A. YES.

6 Q. AND YOU WOULD RECEIVE THOSE BANK STATEMENTS?

7 A. YES.

8 Q. AND WOULD YOU READ THOSE BANK STATEMENTS?

9 A. NOT NECESSARILY.

10 Q. AND -- BUT YOU WOULD SOMETIMES READ THE BANK STATEMENTS?

11 A. I CAN'T REALLY RECALL THAT I OPENED ALL OF THE BANK  
12 STATEMENTS.

13 Q. OKAY. YOU DON'T RECALL?

14 A. I DON'T RECALL.

15 Q. IT'S POSSIBLE THAT YOU READ YOUR BANK STATEMENTS, IT'S  
16 POSSIBLE YOU DIDN'T; IS THAT WHAT YOU'RE SAYING?

17 A. CORRECT.

18 Q. BUT YOU CONTROLLED WHAT HAPPENED TO THE MONEY IN THOSE  
19 ACCOUNTS; CORRECT?

20 A. CORRECT.

21 Q. AND SO THROUGHOUT 2005 YOUR INCOME NEVER -- THE TOTAL  
22 AMOUNT OF MONTHLY DEPOSITS PRIOR TO THE REFINANCING NEVER GOT  
23 CLOSE TO \$15,000; CORRECT?

24 A. THAT'S CORRECT.

25 Q. AND YOU NEVER HAD A --



1 THE COURT: EXCUSE ME. A JUROR HAS A --

2 JUROR: JUDGE, THE CHAIR IS RIGHT ON THE EDGE OF  
3 THAT STEP. SHE'S ABOUT TO FALL RIGHT OFF.

4 THE COURT: THANK YOU.

5 THE WITNESS: THANK YOU.

6 JUROR: YOU'RE WELCOME.

7 THE COURT: WHY DON'T YOU MOVE OVER A LITTLE BIT IN  
8 THAT CHAIR.

9 THE WITNESS: OKAY. OKAY. THANK YOU.

10 THE COURT: MR. FAZIOLI.

11 BY MR. FAZIOLI:

12 Q. ALL RIGHT. YOU HAD A ROUGH IDEA OF WHAT WAS IN YOUR BANK  
13 ACCOUNT; CORRECT?

14 A. AT WHAT TIME?

15 Q. IN THE TIME PERIOD LEADING UP TO YOUR REFINANCING IN  
16 NOVEMBER OF 2005?

17 A. YES.

18 Q. YOU UNDERSTOOD HOW MUCH MONEY WAS IN THE ACCOUNT; CORRECT?

19 A. CORRECT.

20 Q. AND YOU UNDERSTOOD THAT THE MONEY THAT WAS GOING IN AND  
21 OUT OF THE ACCOUNT; CORRECT?

22 A. YES.

23 Q. OKAY.

24 A. AND IN SOME RESPECTS.

25 Q. IN SOME RESPECTS. LET'S GO TO GOVERNMENT'S EXHIBIT 231,

HOLMES CROSS

1 PLEASE. AND YOU RECOGNIZE THAT MR. JOHNSON TESTIFIED ABOUT  
2 THIS CHART? THIS IS EXHIBIT 231?

3 A. YES, I DO.

4 Q. AND THAT THE GREEN LINE HERE, THAT THAT ACTUALLY -- THAT  
5 ACCURATELY REFLECTS WHAT YOUR DAILY ACCOUNT BALANCE WAS ON YOUR  
6 WESTAMERICA ACCOUNT; CORRECT?

7 A. I CAN'T RECALL.

8 Q. OKAY.

9 A. BUT BASED ON --

10 Q. BUT YOU HAVE NO REASON TO DISPUTE THE INFORMATION THAT IS  
11 ON THAT CHART, 231; CORRECT?

12 A. NO, SIR.

13 Q. OKAY. YOUR ACCOUNT BALANCE FOR THAT TIME PERIOD WAS NEVER  
14 CLOSE TO THE \$15,000 FIGURE WHICH WAS INCLUDED ON THE  
15 REFINANCING; CORRECT?

16 A. THAT'S CORRECT.

17 Q. AND YOU KNEW THAT YOUR BALANCE WAS NOT \$15,000 AT ANY  
18 POINT IN TIME IN 2005; CORRECT?

19 A. CORRECT.

20 Q. AND YOU KNEW THAT AT THE TIME THAT THE URLA APPLICATIONS  
21 WERE SUBMITTED; CORRECT?

22 A. YES.

23 Q. WOULD YOU PLEASE GO TO THE NEXT CHART. SO YOU SEE THIS  
24 NEXT CHART. THIS IS EXHIBIT NUMBER 232?

25 A. UH-HUH.

HOLMES CROSS

1 Q. AND DO YOU RECALL THAT MR. JOHNSON TESTIFIED ABOUT THIS  
2 CHART; CORRECT?

3 A. YES.

4 Q. AND THIS CHART LAYS OUT HOW YOU USED SOME OF THE  
5 REFINANCING PROCEEDS TO PAY OFF YOUR DEBTS?

6 A. YES.

7 Q. AND, AGAIN, YOU DON'T SEE ANYTHING THAT IS INACCURATE  
8 ABOUT THIS CHART; CORRECT?

9 A. NO, I DON'T.

10 Q. OKAY. SO I WOULD JUST LIKE TO WALK A LITTLE BIT THROUGH  
11 SOME OF THESE TRANSACTIONS.

12 SO THERE WAS A REFINANCING THAT TOOK PLACE ON THE  
13 MOONRACKER PROPERTY IN NOVEMBER 2005; CORRECT?

14 A. CORRECT.

15 Q. AND IT ACTUALLY FUNDED ON NOVEMBER -- ABOUT NOVEMBER 21ST,  
16 2005; CORRECT? AND YOU KNEW THAT AT THE TIME?

17 A. CORRECT.

18 Q. AND AS PART OF THE REFINANCING, A LOT OF YOUR DEBTS WERE  
19 REPAID; CORRECT?

20 A. YES.

21 Q. AND, FOR EXAMPLE, THERE WAS A PAYMENT TO THE LAW GROUP,  
22 VALLEJO CITY POLICE DEPARTMENT, ET CETERA, AND DO YOU SEE WHERE  
23 IT SAYS TITLE COMPANY ACTION, PAID DEBT? DO YOU SEE THAT?

24 A. YES, I DO.

25 Q. ALL RIGHT. AND IF YOU -- I WON'T ASK YOU TO DO THE MATH

HOLMES CROSS

1 BUT IF YOU ADD UP THE NUMBERS FOR THE PAID DEBTS, IF YOU ADD UP  
2 THE NUMBER OF BILLS THAT ARE PAID, THAT SIGNIFIES THAT ABOUT  
3 \$7,611 WAS PAID DIRECTLY BY THE TITLE COMPANY AS PART OF THE  
4 REFINANCING FOR THAT PART OF IT; CORRECT?

5 A. YES.

6 Q. SO YOU BENEFITTED FROM THAT PART OF THE REFINANCING,  
7 DIDN'T YOU?

8 A. YES.

9 Q. AND THE TITLE COMPANY PAID ABOUT \$7,600 OF YOUR DEBT AT  
10 LEAST IN THAT CHUNK; CORRECT?

11 A. THAT IS CORRECT.

12 Q. AND THEN FOR THE REMAINDER OF THIS CHART THERE IS A -- IT  
13 SAYS TITLE COMPANY ACTION. AND IT SAYS CHECK ISSUED AND  
14 VOIDED. DO YOU SEE THAT?

15 A. YES, I DO.

16 Q. AND THIS REFLECTS ANOTHER THING THAT TOOK PLACE DURING THE  
17 REFINANCING PROCESS WHICH IS THAT YOU ACTUALLY PERSONALLY  
18 NEGOTIATED SOME OF THE DEBTS THAT YOU HAD AT THE TIME; ISN'T  
19 THAT CORRECT?

20 A. YES, I DID.

21 Q. SO, FOR EXAMPLE, YOU -- AROUND THE TIME OF THE  
22 REFINANCING, YOU OWED SPIEGEL \$7,058; IS THAT CORRECT?

23 A. THAT'S CORRECT.

24 Q. AND THE TITLE COMPANY INITIALLY ISSUED A CHECK IN THAT  
25 AMOUNT TO PAY OFF SPIEGEL?

HOLMES CROSS

1 A. YES, THEY DID.

2 Q. AND THAT WAS PART OF THE PROCESS AND PART OF THE BENEFIT  
3 YOU WERE GOING TO GET OUT OF THIS REFINANCING; CORRECT?

4 A. THAT IS CORRECT.

5 Q. BUT THEY ULTIMATELY DIDN'T PAY THAT CHECK OF \$7,058;  
6 CORRECT?

7 A. THAT IS CORRECT.

8 Q. AND THEY DIDN'T DO THAT BECAUSE YOU ACTUALLY HAGGLED WITH  
9 SPIEGEL TO REDUCE THE AMOUNT; CORRECT?

10 A. HAGGLED?

11 Q. NEGOTIATED?

12 A. YES, I NEGOTIATED.

13 Q. YOU CALLED SPIEGEL; CORRECT?

14 A. YES, I DID.

15 Q. AND YOU WERE ABLE TO CONVINCE SPIEGEL TO TAKE ABOUT \$0.50  
16 ON THE DOLLAR OF WHAT YOU OWED THEM; CORRECT?

17 A. CONVINCE?

18 Q. WELL, DID --

19 A. I MADE A SETTLEMENT.

20 Q. OKAY. AND HOW DID YOU GO ABOUT NEGOTIATING THAT  
21 SETTLEMENT WITH SPIEGEL?

22 A. I CALLED THEM AND SPOKE WITH THEM.

23 Q. AND WHAT DID YOU SAY WHEN YOU SPOKE WITH THEM?

24 A. THAT I WOULD LIKE TO MAKE A SETTLEMENT WITH THEM.

25 Q. AND MEANING YOU WANTED TO NEGOTIATE?

HOLMES CROSS

1 A. AS I RECALL.

2 Q. AS YOU RECALL. OKAY. SO YOU CALLED SPIEGEL?

3 A. UH-HUH.

4 Q. AND YOU TOLD THEM THAT YOU WANTED TO MAKE A SETTLEMENT?

5 A. YES.

6 Q. AND THAT YOU WANTED TO PAY LESS THAN YOU OWED THEM;

7 CORRECT?

8 A. YES.

9 Q. AND YOU WERE ABLE TO CONVINCE SPIEGEL TO TAKE ABOUT \$0.50

10 ON THE DOLLAR OF WHAT YOU OWED THEM; CORRECT?

11 A. CONVINCE THEM? THEY MADE AN AGREEMENT THE WAY I RECALL.

12 Q. AND THEY MADE AN AGREEMENT BECAUSE OF WHAT YOU TOLD THEM?

13 YOU TALKED TO THEM; CORRECT? YOU TALKED TO SPIEGEL?

14 A. YES.

15 Q. AND YOU WERE ABLE TO EVENTUALLY -- AT THE END OF THAT

16 PROCESS, SPIEGEL AGREED TO TAKE HALF OF WHAT YOU OWED THEM;

17 CORRECT?

18 A. CORRECT.

19 Q. AND THAT'S PRETTY IMPRESSIVE. HOW ARE YOU ABLE TO

20 CONVINCE SPIEGEL, WHICH IS A BIG COMPANY, TO ACCEPT \$0.50 ON

21 THE DOLLAR OF WHAT YOU OWED THEM?

22 MS. GARRIDO: OBJECTION, CALLS FOR SPECULATION AND  
23 ARGUMENTATIVE.

24 THE COURT: OVERRULED. YOU CAN ANSWER THE QUESTION.

25 THE WITNESS: BASED ON INFORMATION FROM EITHER THE

HOLMES CROSS

1 MORTGAGE COMPANY OR THE TITLE COMPANY OR BOTH FOR ME TO TRY TO  
2 SETTLE WITH THESE COMPANIES.

3 BY MR. FAZIOLI:

4 Q. OKAY. THEY WANTED YOU TO TRY TO SETTLE WITH THE COMPANY,  
5 BUT IT WAS YOU WHO SETTLED WITH SPIEGEL; IS THAT CORRECT?

6 A. I CERTAINLY DID.

7 Q. YOU WERE THE ONE WHO CONVINCED SPIEGEL TO TAKE A LESS  
8 AMOUNT THAN THEY WERE ENTITLED TO; CORRECT?

9 MS. GARRIDO: OBJECTION, ASKED AND ANSWERED.

10 THE COURT: OVERRULED. DID YOU HEAR HIS LAST  
11 QUESTION?

12 THE WITNESS: YEAH, THE WORD "CONVINCED." I MADE A  
13 SETTLEMENT OFFER WITH THEM AND THEY ACCEPTED.

14 BY MR. FAZIOLI:

15 Q. OKAY. AND THE SAME WITH A SIMILAR PROCESS WITH MACY'S;  
16 CORRECT?

17 A. CORRECT.

18 Q. AND YOU OWED MACY'S \$1,300?

19 A. UH-HUH.

20 Q. BUT ULTIMATELY YOU MADE A SETTLEMENT OFFER I TAKE IT TO  
21 MACY'S; CORRECT?

22 A. RIGHT.

23 Q. AND BASED ON WHAT YOU TOLD THEM, MACY'S ULTIMATELY AGREED  
24 TO TAKE LESS THAN WHAT YOU ORIGINALLY OWED THEM; CORRECT?

25 A. CORRECT.

HOLMES CROSS

1 Q. OKAY. AND THE SAME WITH SOME OF THESE OTHER VENDORS, NCO  
2 FIN, FOR EXAMPLE, THEY TOOK LESS THAN WHAT YOU OWED THEM;  
3 CORRECT?

4 A. CORRECT.

5 Q. AND BECAUSE YOU WERE ABLE TO MAKE A SETTLEMENT OFFER;  
6 CORRECT?

7 A. CORRECT.

8 Q. A SETTLEMENT OFFER THAT THEY ULTIMATELY ACCEPTED?

9 A. YES.

10 Q. YOU CONVINCED THEM TO TAKE LESS? YOU WERE VERY PERSUASIVE  
11 WITH THESE COMPANIES, IS THAT FAIR TO SAY?

12 A. I THINK THAT WAS THEIR NORMAL PRACTICE. I DON'T KNOW HOW  
13 CONVINCING I WAS.

14 Q. BUT YOU WERE CONVINCING ENOUGH THAT YOU WERE ABLE TO GET  
15 REDUCTIONS FROM THESE DEPARTMENT STORES AND OTHER ENTITIES ON  
16 WHAT YOU OWED; CORRECT?

17 A. I WAS ABLE TO GET A SETTLEMENT OFFER -- I MEAN A  
18 SETTLEMENT.

19 Q. AND THE SAME WITH LORD AND TAYLOR?

20 A. EVERY LAST ONE OF THEM.

21 Q. AND ROBINSON MAY. YOU WERE ABLE TO PRESENT INFORMATION TO  
22 THEM THAT WAS SUFFICIENT TO LEAD THEM TO TAKE LESS MONEY;  
23 CORRECT?

24 A. YES.

25 Q. OKAY. CAN WE MOVE ON TO THE NEXT CHART. THIS IS 233.



HOLMES CROSS

1 NOW, THIS IS A CHART THAT TALKED ABOUT MONEY THAT YOU RECEIVED  
2 AS A RESULT OF THE REFINANCING; CORRECT?

3 A. YES, IT IS.

4 Q. AND YOU DID, IN FACT, DIRECTLY RECEIVE \$147,000.40 -- I'M  
5 SORRY -- 147 -- ABOUT \$147,000 FROM THE REFINANCING; CORRECT?

6 A. THAT'S CORRECT.

7 Q. AND THAT'S MONEY THAT YOU TOOK OUT OF THE HOUSE?

8 A. YES.

9 Q. AND YOU UNDERSTOOD THAT YOU WERE TAKING MONEY OUT OF THE  
10 HOUSE; CORRECT?

11 A. YES.

12 Q. AND YOU UNDERSTOOD THAT BY TAKING MONEY OUT OF THE HOUSE,  
13 THE DEBT ON THE HOUSE WOULD GO UP; CORRECT?

14 A. YES.

15 Q. AND, AGAIN, THE INFORMATION ON THAT CHART IS ACCURATE,  
16 CORRECT? YOU RECEIVED THE FIRST BATCH OF MONEY WAS \$131,000  
17 WIRE, ABOUT \$131,000 THAT YOU RECEIVED ON NOVEMBER 21ST, 2005;  
18 CORRECT?

19 A. AS FAR AS I COULD RECALL.

20 Q. AS FAR AS YOU COULD RECALL. AND YOU SAW THAT THERE WERE  
21 PRIOR FINANCIAL DOCUMENTS THAT TALK ABOUT THAT WIRE; CORRECT?

22 A. CORRECT.

23 Q. AND YOU HAVE NO REASON TO THINK THAT YOU DIDN'T RECEIVE A  
24 WIRE OF \$131,000 ON NOVEMBER 21ST, TO THAT ACCOUNT; CORRECT?

25 A. NO.

HOLMES CROSS

1 Q. AND THAT ACCOUNT WAS THE STAR PARTNERS CHECKING ACCOUNT,  
2 THAT'S THE CHECKING ACCOUNT THAT WE TALKED ABOUT THAT YOU HAD  
3 CREATED AT WESTAMERICA BANK FOR YOUR BUSINESS STAR PARTNERS;  
4 CORRECT?

5 A. I OPENED IT.

6 Q. YOU OPENED IT?

7 A. I DIDN'T CREATE IT.

8 Q. YOU OPENED IT, YOU CONTROLLED IT, YOU CONTROLLED WHAT  
9 HAPPENED TO THAT MONEY; CORRECT?

10 A. YES.

11 Q. AND SO THAT MONEY HITS YOUR ACCOUNT, THERE'S A WIRE TO YOU  
12 AND ABOUT \$131,000 THAT TAKES PLACE ON NOVEMBER 21ST.

13 AND THEN THERE'S TWO ADDITIONAL PAYMENTS THAT RELATE TO  
14 THE REFINANCING; RIGHT?

15 A. YES.

16 Q. OKAY. AND ONE OF THEM TAKES PLACE ON DECEMBER 9TH, 2005.  
17 AND THEN YOU GET A CHECK, AND THIS IS A CHECK PAYABLE TO YOU IN  
18 THE AMOUNT OF \$15,483; CORRECT?

19 A. CORRECT.

20 Q. OKAY. AND THIS IS A CHECK THAT IS PAYABLE TO YOU AND IT  
21 COMES IN A COUPLE OF WEEKS AFTER THE REFINANCE -- THE FIRST  
22 WIRE HITS; RIGHT?

23 A. YES.

24 Q. AND IT GOES TO A NEW SAVINGS ACCOUNT, CORRECT, THE SAVINGS  
25 ACCOUNT THAT IS LISTED THERE?

HOLMES CROSS

1 A. YES.

2 Q. AND THAT'S AN ACCOUNT THAT YOU CREATED AFTER THIS  
3 FINANCIAL TRANSACTION; CORRECT?

4 A. YES.

5 Q. AND SO YOU HAD, BEFORE THE TRANSACTION, YOU HAD ONE  
6 ACCOUNT, WHICH WAS THIS WESTAMERICA ACCOUNT THAT WAS THE STAR  
7 PARTNERS ACCOUNT, AND AFTERWARDS YOU CREATED A COUPLE -- THERE  
8 WERE A COUPLE OF NEW ACCOUNTS THAT YOU CREATED THAT WERE  
9 CONTROLLED; CORRECT?

10 A. YES.

11 Q. AND ISN'T IT TRUE THAT YOU TOOK MOST OF THE MONEY THAT HAD  
12 GONE TO THE FIRST ACCOUNT, YOU PRETTY QUICKLY MOVED TO THESE  
13 OTHER ACCOUNTS THAT YOU HAD JUST CREATED; ISN'T THAT RIGHT?

14 A. I DID MOVE MONEY. I DON'T -- YES, I DID MOVE MONEY.

15 Q. OKAY. AND THEN THERE'S ONE MORE PAYMENT THAT YOU DIRECTLY  
16 RECEIVED FROM THE REFINANCING AND THAT'S THE -- THAT WAS ON  
17 FEBRUARY 17TH, 2006, AND THAT WAS A CHECK PAYABLE TO YOU IN THE  
18 AMOUNT OF \$147.10; CORRECT?

19 A. YES.

20 Q. AND THAT WENT TO ANOTHER ONE OF THESE NEWLY CREATED  
21 ACCOUNTS. IT DIDN'T GO TO THE SAVINGS ACCOUNT, IT WENT TO THE  
22 CHECKING ACCOUNT; CORRECT?

23 A. I DON'T KNOW IF IT WAS SAVINGS OR CHECKING.

24 Q. OKAY.

25 A. BUT IT DID GO TO ANOTHER ACCOUNT, CORRECT.

HOLMES CROSS

1 Q. CAN QUESTION GO TO THE NEXT CHART, PLEASE.

2 THE COURT: MS. HOLMES, MAKE SURE YOUR CHAIR DOES  
3 NOT WANDER OVER.

4 THE WITNESS: IT'S HERE. IT'S JUST THE WAY THE BOOK  
5 AND THE WATER ARE I CAN'T.

6 BY MR. FAZIOLI:

7 Q. AS YOU MAY RECALL THIS WAS A CHART TALKING ABOUT HOW YOU  
8 SPENT THE \$147,000 IN REFINANCING PROCEEDS; CORRECT?

9 A. CORRECT.

10 Q. AND I THINK YOU TESTIFIED YOU WERE THE PERSON WHO SPENT  
11 THAT \$147,000; CORRECT?

12 A. YES.

13 Q. AND NO ONE ELSE WAS RESPONSIBLE FOR WHO SPENT THAT MONEY?

14 A. NO.

15 Q. OKAY. AND DO YOU SEE HOW IT'S LAID OUT HERE IN A CERTAIN  
16 PIE CHART THAT LAYS OUT HOW YOU SPENT THAT MONEY?

17 AND DO YOU HAVE ANY REASON TO THINK THAT THAT PIE CHART IS  
18 NOT CORRECT HOW THAT INFORMATION IS LAID OUT?

19 A. YES, I DO.

20 Q. OKAY. WHAT DO YOU THINK IS INCORRECT ABOUT IT? LET ME  
21 ASK YOU -- GO AHEAD AND ANSWER THE QUESTION.

22 A. GO AHEAD.

23 Q. NO, GO AHEAD.

24 A. THE CASH PART OF IT.

25 Q. THE CASH PART?

HOLMES CROSS

1 A. UH-HUH.

2 Q. OKAY. YOU HEARD THE TESTIMONY THAT INDICATED THAT THAT  
3 WAS ATM WITHDRAWALS THAT WERE TAKEN OUT AND CHECKS MADE TO  
4 CASH?

5 A. UH-HUH.

6 Q. AND THAT AMOUNT PUT TOGETHER CAME UP TO THE \$68,000  
7 NUMBER; CORRECT?

8 A. UH-HUH.

9 THE COURT: IS THAT A YES?

10 THE WITNESS: YES.

11 BY MR. FAZIOLI:

12 Q. SO IS IT YOUR TESTIMONY THAT YOU DID NOT TAKE OUT \$68,000  
13 EITHER IN ATM WITHDRAWALS OR CHECKS TO CASH?

14 A. MAYBE I DON'T RECALL YOUR QUESTION. COULD YOU REASK THAT  
15 QUESTION AGAIN ABOUT THIS PARTICULAR --

16 Q. OKAY. ISN'T IT CORRECT THAT OF THE \$147,000 THAT YOU  
17 RECEIVED IN REFINANCING PROCEEDS, THAT A LITTLE LESS THAN HALF  
18 OF IT WOUND UP GETTING REDUCED TO CASH, EITHER IN THE FORM OF  
19 ATM WITHDRAWALS FROM VARIOUS LOCATIONS OR CHECKS MADE OUT TO  
20 CASH?

21 A. THAT'S CORRECT.

22 Q. SO YOU TURNED ABOUT \$68,000 OF IT INTO CASH. THEN THERE  
23 WAS A NETWORK PURCHASE AT GLOBAL CALIFORNIA, 14455 HIGHWAY 16,  
24 BROOKS, CALIFORNIA FOR ABOUT \$3400; IS THAT CORRECT?

25 A. THAT'S CORRECT.

HOLMES CROSS

1 Q. AND THAT LOCATION IS A CASINO; CORRECT?

2 A. CORRECT.

3 Q. IT'S A CASINO IN BROOKS, CALIFORNIA?

4 MS. GARRIDO: I HAVE AN OBJECTION. MAY WE APPROACH?

5 THE COURT: I THINK THIS WAS IN ONE OF THE OTHER  
6 DOCUMENTS.

7 MR. FAZIOLI: I THINK IT'S ALSO A TOPIC THAT HAS  
8 BEEN DEALT WITH ON DIRECT EXAMINATION TO A GREAT DEGREE.

9 THE COURT: IF YOU WANT TO APPROACH, SURE.

10 (SIDE-BAR CONFERENCE ON THE RECORD.)

11 MS. GARRIDO: YOUR HONOR, IT'S TRUE THAT ON DIRECT  
12 EXAMINATION SHE DID, FRANKLY, ACKNOWLEDGE AND TAKE  
13 RESPONSIBILITY FOR GAMBLING DEBT THAT SHE RACKED UP BUT AT THE  
14 SAME TIME THERE WAS STILL A RULING WITH REGARD TO THAT  
15 PARTICULAR ADDRESS AND THAT IT WOULD NOT BE LINKED UP BY THE  
16 GOVERNMENT TO BE A CASINO.

17 I THINK THAT QUESTION IS A VIOLATION.

18 THE COURT: SO YESTERDAY WHEN WE WENT THROUGH SOME  
19 OF THE EXHIBITS, THE TAX RETURNS, I THINK, I THINK THIS ADDRESS  
20 WAS LISTED ON THE W-2G IF I'M NOT MISTAKEN.

21 MS. GARRIDO: IT WAS, YOUR HONOR, AND THE COURT'S  
22 SPECIFIC IN LIMINE RULING WAS THAT THE GOVERNMENT WAS NOT ABLE  
23 TO LINK THOSE UP BECAUSE BASICALLY THE CASH WITHDRAWALS, THE  
24 ATM WITHDRAWALS, THE FACT THAT THEY OCCURRED IN A CASINO, THAT  
25 WAS NOT SOMETHING THAT THEY WERE TO GET INTO BECAUSE IT WAS NOT

HOLMES CROSS

1 DETERMINED WHAT IT WAS SPENT ON AT THE CASINOS OR ELSEWHERE.

2 THE COURT: AND THAT WAS ON I THINK THE CHECK  
3 RETURNS OR THE BANK STATEMENTS.

4 MS. GARRIDO: AND THAT'S THE SOURCE OF THE DATA FOR  
5 THIS EXHIBIT.

6 MR. FAZIOLI: WELL, I MEAN, THE DEFENSE WENT AFTER  
7 PREVIOUSLY INDICATING THAT MS. HOLMES DID NOT HAVE A GAMBLING  
8 PROBLEM HAS NOW PRESENTED DIRECT TESTIMONY THAT SHE HAS A  
9 GAMBLING PROBLEM AND WENT INTO GREAT DETAILS THAT SHE FELT LIKE  
10 SHE HAD A LACK OF CONTROL AND HOW SHE FELT SHE SPENT A LOT OF  
11 MONEY AT CASINOS.

12 I MEAN, THIS WAS A MAJOR FOCAL POINT OF THEIR DIRECT  
13 EXAMINATION. IN LIGHT OF THAT, WE SHOULD BE ENTITLED TO  
14 EXPLORE THAT TOPIC. THEY'RE THE ONES THAT RAISED IT IN THEIR  
15 DIRECT EXAMINATION.

16 IN THEIR PRIOR -- WHEN WE WENT THROUGH THE BANK RECORDS,  
17 WE DID NOT HIGHLIGHT THE FACT THAT THAT LOCATION WAS A CASINO  
18 BUT THEY'RE PRESENTING IT, AND I THINK IT'S UNCLEAR WHETHER  
19 THIS IS SOME KIND OF DIMINISHED CAPACITY OR MENTAL HEALTH  
20 DEFENSE THAT SHE HAD SOME SORT OF GAMBLING ISSUE AND SHE'S  
21 PRESENTING THIS AS A JUSTIFICATION AND EXPLANATION FOR HER  
22 BEHAVIORS. I THINK THEY HAVE OPENED THE DOOR ON THE SUBJECT.

23 MS. GARRIDO: AND I CAN CERTAINLY APPRECIATE  
24 COUNSEL'S REPRESENTATION AS TO THE OPENING OF THE DOOR.  
25 HOWEVER, WHEN THE DOOR GETS OPENED OR COUNSEL BELIEVES THAT THE

HOLMES CROSS

1 DOOR GETS OPENED, THE TYPICAL WAY TO HANDLE THAT IS TO APPROACH  
2 AND ASK TO GET INTO IT.

3 THERE WAS A STANDING IN LIMINE ORDER, AND I BELIEVE  
4 COUNSEL HAS VIOLATED IT.

5 THE COURT: OKAY. THANK YOU. SO, MS. LIE, DO YOU  
6 WISH TO BE HEARD?

7 MS. LIE: NO.

8 THE COURT: OKAY. THANK YOU.

9 THIS ADDRESS I NOTICE CAME UP YESTERDAY ON SOME OF THE, I  
10 THINK IT WAS TAX DOCUMENTS, AND THE SPECIFIC ADDRESS WAS LISTED  
11 THERE WHEN THE IN LIMINE MOTION WENT TOWARDS THE DEFENSE ASKING  
12 THAT THE ATM WITHDRAWALS IN THE BANK RECORDS OR STATEMENTS, I  
13 GUESS THEY WERE, NOT BE IDENTIFIED. WE HAD COLLOQUY ABOUT  
14 WHETHER OR NOT THEY SHOULD BE REDACTED ENTIRELY OR NOT  
15 IDENTIFIED.

16 AND I SAID THE STATEMENTS -- I ALLOWED THE STATEMENTS TO  
17 COME IN, BUT I WOULD NOT ALLOW AN OTHERWISE UNINDICATED  
18 ESTABLISHMENT, CASINOS, TO BE IDENTIFIED.

19 SO THIS ADDRESS HAS COME IN ALREADY. I DON'T THINK  
20 THERE'S ANY PREJUDICIAL EFFECT, PARTICULARLY IN LIGHT OF THE  
21 FACT THAT ON DIRECT EXAMINATION SHE INDICATED THAT SHE GAMBLER.  
22 I DON'T SEE HOW THIS PREJUDICES THE DEFENSE IN ANY WAY, AND THE  
23 ISSUE HAS BEEN RAISED BY THE DEFENSE.

24 I'M STILL NOT GOING TO ALLOW IT -- I'M NOT OVERRULING THE  
25 IN LIMINE OBJECTION, THE IN LIMINE ORDER INDICATING THAT YOU



HOLMES CROSS

1 COULDN'T IDENTIFY THOSE.

2 NOW, I THINK IT'S FAIR GAME NOW THAT YOU CAN TALK ABOUT  
3 THOSE NOW. I THINK YOU HAVE RAISED THE GAMBLING ISSUE.

4 THE IN LIMINE ORDER WAS TO PROTECT THE DEFENSE AT THAT  
5 TIME FROM THE GOVERNMENT RAISING IN THEIR CASE IN CHIEF THE  
6 IDENTITY OF ANY OF THESE LOCATIONS AS GAMBLING. THIS ADDRESS,  
7 AS I SAID, THE ADDRESS IS ON THE SCREEN NOW AND EXHIBIT 234-1  
8 WAS ALSO ON ONE OF THE TAX RETURNS WHICH CLEARLY ESTABLISHED  
9 THIS AS A GAMBLING ADDRESS.

10 SO I THINK IT'S IN EVIDENCE AND I PARTICULARLY NOW, SINCE  
11 THE DEFENDANT ON DIRECT HAS INDICATED HER GAMBLING PROBLEM, I  
12 DON'T SEE THAT THERE'S ANY PREJUDICE AT ALL TO ALLOWING FURTHER  
13 EXAMINATION ON THIS TOPIC.

14 MS. LIE: I JUST WANTED TO PLACE ONE THING ON THE  
15 RECORD, AND I UNDERSTAND THE COURT'S RULING AS FAR AS THIS  
16 ALREADY BEING IN EVIDENCE AND THE COURT'S PREVIOUS REFERENCE TO  
17 THE INCOME TAX RETURNS THAT WERE ADMITTED INTO EVIDENCE  
18 YESTERDAY.

19 I WILL SIMPLY NOTE FOR THE RECORD THAT THE DEFENSE HAD  
20 OBJECTED IN LIMINE AND DURING OUR PRETRIAL CONFERENCE REGARDING  
21 THE ADMISSIBILITY OF ALL OF THESE FINANCIAL RECORDS IN  
22 UNREDACTED FORM AND WE HAD SPECIFICALLY REQUESTED THAT THE TAX  
23 RETURNS, INCLUDING THE IDENTIFICATION OF THIS ADDRESS, BE  
24 REDACTED. AND I UNDERSTAND THE COURT'S RULING, BUT OUR  
25 DECISION IS IN ACCORDANCE WITH IT.

1 THE COURT: ALL RIGHT. ANYTHING FURTHER?

2 MS. GARRIDO: NO, YOUR HONOR.

3 MR. FAZIOLI: NO.

4 THE COURT: ALL RIGHT. THANK YOU, COUNSEL.

5 (END OF DISCUSSION AT SIDE-BAR.)

6 THE COURT: MR. FAZIOLI.

7 MR. FAZIOLI: THANK YOU.

8 Q. SO DRAWING YOUR ATTENTION BACK TO EXHIBIT 234. THIS IS A  
9 DOCUMENT THAT LAYS OUT HOW YOU SPENT THE \$147,000 IN  
10 REFINANCING PROCEEDS. ABOUT \$4,500 YOU PAID TO CRAIG TORRES;  
11 CORRECT?

12 A. YES.

13 Q. AND IN ADDITION TO THE \$68,000 IN CASH, THERE'S ALSO  
14 \$28,400 TO JACQUIE PAIGE HEARD, JAMES HEARD, LISA HEARD, AND  
15 JEREMY HOLMES; CORRECT?

16 A. CORRECT.

17 Q. AND THESE ARE ALL FAMILY MEMBERS OF YOURS?

18 A. YES.

19 Q. AND SO IT WOULD BE FAIR TO SAY THAT YOU REFINANCED THE  
20 HOUSE, TOOK ABOUT \$147,000 OF IT AND OF THAT ABOUT OVER \$68,000  
21 WENT TO CASH; CORRECT?

22 A. CORRECT.

23 Q. AND IT WAS ULTIMATELY SPENT; RIGHT?

24 A. SPENT, YES.

25 Q. AND ABOUT \$28,400 WENT TO SOME OTHER FAMILY MEMBERS;

HOLMES CROSS  
1 CORRECT?

2 A. CORRECT.

3 Q. AND NO MONEY WENT TO LEONARD PAIGE; CORRECT?

4 A. CORRECT.

5 Q. AND NO MONEY WENT TO LEONARD PAIGE'S BANKRUPTCY ESTATE?

6 A. CORRECT.

7 Q. LET ME DRAW YOUR ATTENTION TO THE DOCUMENT THAT HAS BEEN  
8 MARKED AT EXHIBIT 235. AND DO YOU SEE THAT THIS IS A CHART AND  
9 THIS IS THE -- THIS CHART OF 235 LAYS OUT THE COMBINED DAILY  
10 BALANCE OF ALL OF YOUR WESTAMERICA BANK ACCOUNTS FROM  
11 JANUARY 1, 2005, THROUGH APRIL 5TH, 2006.

12 DO YOU SEE THAT?

13 A. YES, I DO.

14 Q. AND THIS CHART -- AND THIS CHART, BY THE WAY, AGGREGATES  
15 ALL OF THE BANK ACCOUNTS, THE STAR PARTNERS ACCOUNT AT THE  
16 BEGINNING, AND THEN THE MULTIPLE ACCOUNTS THAT YOU OPENED AND  
17 ALL OF THOSE BALANCES ARE PUT TOGETHER TO COME UP WITH THIS  
18 NUMBER. AND THERE'S A BLUE LINE THERE THAT INDICATES THE  
19 COMBINED DAILY BALANCE; CORRECT?

20 A. CORRECT.

21 Q. AND THAT WAS, IN FACT, IF YOU TOOK ALL OF THE MONEY THAT  
22 YOU HAD IN YOUR WESTAMERICA BANK ACCOUNTS AND YOU PUT IT INTO A  
23 POT, AND THEN YOU CHARTED THE BALANCE, THAT'S WHAT THE BLUE  
24 LINE INDICATES; CORRECT?

25 A. I WOULD ASSUME SO.

HOLMES CROSS

1 Q. AND YOU HAVE NO REASON TO DISAGREE WITH THAT; CORRECT?

2 A. NO.

3 Q. OKAY. AND SO THE BIG JUMP THAT TAKES PLACE ON  
4 NOVEMBER 21ST, IS WHEN THAT \$131,000 WIRE HITS YOUR ACCOUNT;  
5 CORRECT?

6 A. CORRECT.

7 Q. AND WITHIN A WEEK, BY 11-28-2005, THE COMBINED DAILY  
8 BALANCE HAS DROPPED TO ABOUT \$71,495.75. DO YOU SEE THAT?

9 A. YES, I DO.

10 Q. AND SO WITHIN A WEEK OF YOU RECEIVING THE LOAN REFINANCING  
11 PROCEEDS YOU HAD SPENT OVER \$65,000; RIGHT?

12 A. CORRECT.

13 Q. OKAY. AND THEN BY JANUARY 23RD, 2006, THE COMBINED DAILY  
14 BALANCE DROPS TO ABOUT \$32,000; CORRECT?

15 A. CORRECT.

16 Q. SO -- AND THERE'S A LITTLE BUMP UP THAT TAKES PLACE IN  
17 DECEMBER AND THAT'S ACTUALLY THAT -- THAT'S THE SECOND WIRE  
18 THAT WE TALKED ABOUT AND YOU CAN TAKE A LOOK AT THE PRIOR  
19 EXHIBIT. THAT'S THE SECOND WIRE THAT HIT THE ACCOUNT. THAT'S  
20 WHY IT GOES UP.

21 A. OKAY.

22 Q. OKAY. SO IT'S FAIR TO SAY THAT WITHIN A WEEK OF GETTING  
23 THIS MONEY YOU HAD SPENT ABOUT \$65,000, WHICH IS ALMOST HALF OF  
24 THE REFINANCING PROCEEDS; RIGHT?

25 A. YES.

HOLMES CROSS

1 Q. AND THEN BY JANUARY 23RD, WHICH IS ABOUT A LITTLE MORE  
2 THAN TWO MONTHS LATER, YOU HAD SPENT \$100,000 OF THE PROCEEDS;  
3 RIGHT?

4 A. YES.

5 Q. AND SO BY THAT POINT THERE WAS ONLY ABOUT \$30,000 LEFT;  
6 CORRECT?

7 A. YES.

8 Q. AND THEN OVER THE NEXT, YOU KNOW, THREE, MONTHS OR SO ALL  
9 OF THE REST OF THE MONEY IS GONE?

10 A. CORRECT.

11 Q. SO I'D LIKE TO DRAW YOUR ATTENTION TO THE -- SOME  
12 DOCUMENTS THAT WE TALKED ABOUT YESTERDAY RELATED TO YOUR TAXES.

13 AND IF YOU WOULDN'T MIND TAKING A LOOK AT THE FIRST  
14 BINDER. AND WHEN YOU HAVE A CHANCE TO TAKE A LOOK AT THAT  
15 BINDER, I WOULD APPRECIATE IT.

16 THE COURT: DO YOU WANT TO REFERENCE IT?  
17 BY MR. FAZIOLI:

18 Q. WHY DON'T WE REFERENCE EXHIBIT 7, WHICH IS THE  
19 CERTIFICATION OF LACK OF RECORD.

20 A. ALL RIGHT.

21 Q. NOW, YOU DID NOT FILE A FEDERAL INCOME TAX RETURN IN 2004;  
22 CORRECT?

23 A. I DON'T RECALL.

24 Q. YOU DON'T RECALL IF YOU DID?

25 A. RIGHT NOW, NO.

HOLMES CROSS  
1 Q. YOU DON'T RECALL?

2 MS. GARRIDO: OBJECTION, ASKED AND ANSWERED.

3 THE COURT: ALL RIGHT. WE CAN MOVE ON.

4 BY MR. FAZIOLI:

5 Q. LET'S MOVE TO EXHIBIT 13. AND THIS IS A U.S. CORPORATION  
6 SHORT FORM INCOME TAX RETURN FOR 2004; CORRECT?

7 A. YES, IT IS.

8 Q. AND THIS IS THE CORPORATE INCOME TAX RETURN THAT YOU FILED  
9 FOR YOUR COMPANY WHICH WAS THEN KNOWN AS PARTNERS SECURITY  
10 SERVICES, INC., 312 MOONRACKER DRIVE, VALLEJO, CALIFORNIA;  
11 RIGHT?

12 A. YES.

13 Q. AND THERE'S AN EMPLOYEE I.D. NUMBER THERE ON THE TOP  
14 RIGHT.

15 AND LET ME JUST SAY, YOU PROVIDED THE INFORMATION THAT IS  
16 ON THIS EXHIBIT 13; CORRECT?

17 A. YES.

18 Q. YOU FILLED OUT YOUR TAX RETURNS?

19 A. I WENT THROUGH SOUTHWARD ASSOCIATION.

20 Q. AND YOU PROVIDED THE INFORMATION THAT EVENTUALLY MADE ITS  
21 WAY ONTO THESE TAX RETURNS; CORRECT?

22 A. I -- FROM WHAT I RECALL.

23 Q. FROM WHAT YOU RECALL. AND YOU DOUBLE-CHECKED THEM BEFORE  
24 YOU SENT THEM OUT?

25 A. NOT NECESSARILY.

HOLMES CROSS

1 Q. NOT NECESSARILY. BUT YOU DID SIGN THEM UNDER PENALTY OF  
2 PERJURY; CORRECT?

3 A. YES, I DID.

4 Q. YOU WOULDN'T LIE ON YOUR TAX RETURNS, RIGHT?

5 A. NO.

6 Q. AND YOU TOLD THE TRUTH ON YOUR TAX RETURNS, IN OTHER  
7 WORDS?

8 A. CORRECT.

9 Q. AND THIS PARTNERS SECURITY SERVICE, THIS IS YOUR BUSINESS,  
10 WHAT LATER BECAME STAR PARTNERS; CORRECT?

11 A. CORRECT.

12 Q. AND THAT EMPLOYER I.D. NUMBER, THAT'S THE EMPLOYER I.D.  
13 NUMBER FOR THAT COMPANY STAR PARTNERS; RIGHT?

14 A. FROM WHAT I CAN RECALL.

15 Q. FROM WHAT YOU CAN RECALL.

16 AND STAR PARTNERS WAS INCORPORATED ON JANUARY 28TH, 2000?

17 A. STAR PARTNERS OR PARTNERS?

18 Q. WELL, THE PARTNERS SECURITY SERVICES YOU EVENTUALLY GAVE  
19 IT A NEW NAME WHICH WAS STAR PARTNERS; CORRECT?

20 A. RIGHT.

21 Q. AND IT'S REALLY THE SAME COMPANY BUT IT HAD TWO NAMES?

22 A. YES.

23 Q. AND YOU INCORPORATED THAT COMPANY ON JANUARY 28TH, 2000?

24 A. I BELIEVE SO.

25 Q. ALL RIGHT. SO PARTNERS SECURITY SERVICE HAD NO ASSETS IN

HOLMES CROSS  
2004; CORRECT?

A. NO. ONLY WHAT IS SHOWN HERE ON THE TAX FORM.

Q. OKAY. BUT DO YOU SEE UP THERE IT SAYS TOTAL ASSETS AND WHEN YOU WERE ASKED TO REPORT THE TOTAL ASSETS OF PARTNERS SECURITY SERVICES, YOU REPORTED THEM AS ZERO; CORRECT?

A. CORRECT.

Q. AND YOU WERE TELLING THE TRUTH WHEN YOU WERE REPORTING THE ASSETS OF THAT BUSINESS AS ZERO; CORRECT?

A. YES, I WAS.

Q. AND YOU WERE ALSO TELLING THE TRUTH WHEN YOU INDICATED THAT THAT BUSINESS HAD NO GROSS RECEIPTS OR SALES IN 2004; CORRECT?

A. YES.

Q. AND THEN YOU SIGNED THIS TAX RETURN AT THE BOTTOM; CORRECT?

A. YES, I DID.

Q. THAT'S YOUR SIGNATURE? YOU SIGNED IT ON APRIL 1ST, 2005.

NOW, IF YOU WOULD PLEASE JUMP TO PAGE 13-3. IF YOU WOULD BLOW UP THE TOP. AND THESE ARE YOUR ITEMIZED DEDUCTIONS THAT YOU -- THESE ARE DEDUCTIONS THAT YOU TOOK FOR PARTNERS SECURITY SERVICE; CORRECT?

A. CORRECT.

Q. OKAY. AND THESE ARE DEDUCTIONS THAT YOU TOOK FROM THE I.R.S. AND YOU SUBMITTED TO THE I.R.S. IN CONNECTION WITH THIS BUSINESS; CORRECT?



HOLMES CROSS

1 A. CORRECT.

2 Q. ALL RIGHT. AND THEY ADDED UP TO ABOUT \$22,000 IN TERMS OF  
3 THEIR DEDUCTIONS?

4 A. YES.

5 Q. SO LET'S DRAW YOUR ATTENTION NOW TO EXHIBIT 11. ALL  
6 RIGHT. THIS IS YOUR INDIVIDUAL INCOME TAX RETURN FOR 2005;  
7 CORRECT?

8 ACTUALLY, I'M SORRY. THERE'S A COUPLE OF PAGES. SO WHY  
9 DON'T I GIVE YOU A MINUTE AND WHY DON'T YOU JUST LOOK THROUGH  
10 THE PAGES OF EXHIBIT 11, AND THEN, PLEASE, LET ME KNOW WHENEVER  
11 YOU'RE READY TO PROCEED.

12 A. YES, THEY ARE.

13 Q. THIS IS YOUR TAX RETURN?

14 A. YES.

15 Q. YOU PROVIDED THE INFORMATION ON THIS TAX RETURN?

16 A. YES, AS FAR AS I CAN RECALL.

17 Q. YOU HAVE NO REASON TO THINK THAT YOU DIDN'T PROVIDE THE  
18 INFORMATION ON THIS RETURN?

19 A. CORRECT.

20 Q. AND IT'S GOT YOUR NAME AT THE TOP AND THE -- AND YOUR  
21 ADDRESS, WHICH IS 312 MOONRACKER DRIVE, VALLEJO, CALIFORNIA;  
22 CORRECT?

23 A. CORRECT.

24 Q. AND YOU LIST YOUR WAGES, SALARIES, TIPS, AND ET CETERA, AS  
25 6 -- ABOUT \$6,000; CORRECT?

HOLMES CROSS

1 A. THAT IS CORRECT.

2 Q. AND THE WAGES, TIPS, AND SALARIES THAT YOU REPORTED WERE  
3 THE MONEY THAT YOU MADE FROM I THINK IT WAS UCSF; CORRECT?

4 A. YEAH.

5 Q. OR THE U.C. SYSTEM; CORRECT?

6 A. UCSF.

7 Q. AND WHAT WERE YOU DOING FOR THE U.C. SYSTEM?

8 A. I WAS A RECRUITER FOR HIV AIDS FOUNDATION.

9 Q. AND YOU ALSO MADE ABOUT \$175 FROM A1 SECURITY SERVICES;  
10 CORRECT?

11 A. CORRECT.

12 Q. AND, NOW, A1 SECURITIES SERVICES IS NOT THE PAIGES  
13 SECURITY SERVICE THAT YOUR FATHER ESTABLISHED; CORRECT?

14 A. NO.

15 Q. THEY'RE DIFFERENT COMPANIES?

16 A. AS FAR AS I KNOW.

17 Q. OKAY. AND, NOW, YOU UNDERSTOOD -- YOU SEE AT THE BOTTOM  
18 OF THIS RETURN ON THE SECOND PAGE IT INDICATES -- YOU SIGNED  
19 THIS RETURN; CORRECT?

20 A. YES, I DID.

21 Q. THAT'S YOUR SIGNATURE ON IT. AND THERE'S AN ADMONITION  
22 THERE THAT SAYS, "UNDER PENALTY OF PERJURY YOU DECLARE THAT YOU  
23 HAVE EXAMINED THIS RETURN AND ACCOMPANYING SCHEDULES AND TO THE  
24 BEST OF YOUR KNOWLEDGE AND BELIEF THEY'RE TRUE, CORRECT, AND  
25 COMPLETE, DECLARATION OF PREPARER OTHER THAN TAXPAYER IS BASED

HOLMES CROSS

1 ON ALL INFORMATION OF WHICH THE TAXPAYER HAS ANY KNOWLEDGE."

2 AND DO YOU SEE YOU SIGNED IT?

3 A. YES, I DID.

4 Q. AND YOU REPORTED YOUR INCOME FOR 2005 AS \$6,097; CORRECT?

5 AND THAT'S ON LINE 7?

6 A. YES.

7 Q. AND THAT, IN FACT, WAS YOUR INCOME FOR 2005; CORRECT?

8 A. YES.

9 Q. AND YOU DIDN'T RECEIVE INCOME FROM ANY OTHER SOURCE THAT  
10 YEAR?

11 A. NOT THAT -- NO.

12 Q. NO. NOW, ON THE URLA APPLICATION, WHICH WE'LL GET TO,  
13 THERE'S A LISTING THERE FOR YOUR MONTHLY EMPLOYMENT INCOME;  
14 CORRECT?

15 A. CORRECT.

16 Q. AND IT IS LISTED, AND WE'LL GET TO THIS, BUT IT'S LISTED  
17 AS \$15,000 FOR MONTHLY EMPLOYMENT INCOME?

18 A. CORRECT.

19 Q. AND IF YOU WERE TO MULTIPLY THAT, YOU KNOW, 12 BY 15, I  
20 THINK YOU WOULD GET \$180,000 IN ANNUAL EMPLOYMENT INCOME;  
21 CORRECT?

22 A. CORRECT.

23 Q. AND SO WHAT WAS YOUR EMPLOYMENT INCOME FOR 2005? WAS IT  
24 THE \$6,097 THAT IS LISTED HERE ON YOUR INDIVIDUAL INCOME TAX  
25 RETURN OR WAS IT THE \$180,000 THAT WAS LISTED ON YOUR URLA?

HOLMES CROSS

1 A. FROM MY RECOLLECTION IT WOULD BE WHAT WAS CITED ON MY  
2 I.R.S. FORM.

3 Q. OKAY. SO THE NUMBER -- THE \$15,000 MONTHLY EMPLOYMENT  
4 INCOME FIGURE ON YOUR URLA WAS INCORRECT?

5 A. VERY MUCH SO.

6 Q. OKAY. AND, IN FACT, YOU DIDN'T EVEN MAKE 15 -- YOU DIDN'T  
7 EVEN MAKE \$15,000 FOR THE ENTIRE YEAR OF 2005; CORRECT?

8 A. CORRECT.

9 Q. NOW, ON THIS INDIVIDUAL INCOME TAX RETURN, IT WAS IN YOUR  
10 INTEREST FOR THIS NUMBER ABOUT YOUR INCOME TO BE LOW, WASN'T  
11 IT?

12 A. I BEG YOUR PARDON?

13 Q. IT WAS -- YOU -- IT WAS GOOD FOR YOU IN TERMS OF WHAT YOU  
14 WOULD HAVE TO PAY FOR YOUR INCOME ON THIS INCOME TAX RETURN TO  
15 BE LOW; CORRECT?

16 A. I DON'T UNDERSTAND THE QUESTION.

17 Q. IF YOUR INCOME HAD BEEN HIGHER, IF YOU HAD REPORTED A  
18 HIGHER INCOME ON YOUR INCOME TAX RETURN, THERE IS THE  
19 POSSIBILITY THAT YOU MIGHT HAVE HAD TO PAY SOME TAXES THAT  
20 YEAR; CORRECT?

21 MS. GARRIDO: OBJECTION, RELEVANCE.

22 THE COURT: OVERRULED. YOU CAN ANSWER THE QUESTION.

23 THE WITNESS: I ONLY KNOW WHAT TO REPORT WHAT YOU  
24 MAKE YEARLY AND HONESTLY ON MY I.R.S. SO I DON'T QUITE  
25 UNDERSTAND YOUR QUESTION.

HOLMES CROSS

1 BY MR. FAZIOLI:

2 Q. WELL, IT WAS GOOD FOR YOU FINANCIALLY THAT THIS NUMBER WAS  
3 LOW; CORRECT?

4 A. NOT FINANCIALLY.

5 Q. OKAY.

6 A. IT WAS NOT GOOD.

7 Q. BUT IT WAS GOOD FOR YOU IN TERMS OF THE TAXES THAT YOU  
8 WOULD HAVE TO PAY; RIGHT?

9 A. IT WAS HONEST THAT AMOUNT OF MONEY THAT I HAD MADE THAT  
10 YEAR.

11 Q. AND THEN ON THE URLA APPLICATION?

12 A. UH-HUH.

13 Q. THAT WAS SOMETHING THAT WAS SUBMITTED IN ORDER FOR YOU TO  
14 GET A REFINANCING LOAN; CORRECT?

15 A. SUBMITTED BY? COULD YOU BE CLEARER WITH YOUR QUESTION?

16 Q. THAT URLA APPLICATION?

17 A. UH-HUH.

18 Q. THAT WAS SUBMITTED, IT WAS A PROCESS THAT YOU WERE AWARE  
19 OF; CORRECT?

20 A. CORRECT.

21 Q. AND THAT WAS A PROCESS THAT WAS SUBMITTED IN ORDER FOR YOU  
22 TO GET A HOME REFINANCING; RIGHT?

23 A. CORRECT.

24 Q. OKAY. AND IN THAT CONTEXT, ON THE URLA APPLICATION  
25 PROCESS, YOU KNEW THAT IT WOULD HELP YOUR URLA APPLICATION IF

HOLMES CROSS  
1 YOUR INCOME WAS HIGHER; CORRECT?

2 A. THAT'S INCORRECT.

3 Q. AND IT'S INCORRECT, YOU DIDN'T KNOW THAT?

4 A. I DID NOT KNOW THAT.

5 Q. YOU DID NOT KNOW THAT?

6 A. NO.

7 Q. SO YOU'RE SAYING THAT YOU DIDN'T KNOW THAT HIGHER INCOME  
8 WOULD HELP YOU ON THAT URLA APPLICATION?

9 A. NO, NO. I KNEW THAT SUPPLYING TAX RECORDS -- I MEAN, MY  
10 SOCIAL SECURITY NUMBER AND THE INFORMATION WOULD PROVIDE ME  
11 WITH A LOAN OR NOT A LOAN.

12 Q. ALL RIGHT. GOING THROUGH HERE -- LET'S GET BACK TO YOUR  
13 TAX RETURNS. YOU HAVE OTHER INCOME AND YOU HAVE "SEE  
14 STATEMENT."

15 AND IT'S LISTED AS 11,808. DO YOU SEE THAT? AND THIS IS  
16 ON PAGE 11-4?

17 A. RIGHT. I HAVE IT HERE.

18 Q. LET'S GO BACK TO SOMETHING. WE WERE JUST TALKING ABOUT  
19 YOUR HOUSE FOR A SECOND.

20 A. OKAY.

21 Q. WHEN YOU PURCHASED YOUR HOUSE BACK IN -- YOU PURCHASED THE  
22 HOUSE BACK IN 1999; CORRECT?

23 A. YES.

24 Q. AND IT'S THROUGH AT THAT POINT THAT YOU SUBMITTED A LOAN  
25 APPLICATION IN CONNECTION WITH THAT PURCHASE; RIGHT?

HOLMES CROSS

1 A. YES, I DID.

2 Q. AND YOU, IN FACT, SUBMITTED A UNIFORM RESIDENTIAL LOAN  
3 APPLICATION ALSO KNOWN AS AN URLA; CORRECT?

4 A. YES, I DID.

5 Q. VERY SIMILAR TO THE URLA'S THAT ARE AT ISSUE IN THIS CASE?

6 A. UH-HUH.

7 Q. AND SO AT THE TIME OF THE LOAN APPLICATIONS IN THIS CASE  
8 HAD TAKEN PLACE, THE 2005 TIME PERIOD TIMEFRAME, YOU HAD  
9 ALREADY SUBMITTED AN URLA PREVIOUSLY; CORRECT?

10 A. YES.

11 Q. AND YOU UNDERSTOOD THE PROCESS OF WHAT AN URLA WAS FOR;  
12 RIGHT?

13 A. NOT NECESSARILY, NO.

14 Q. AND YES OR NO, DID YOU UNDERSTAND THE PROCESS BY WHICH AN  
15 URLA WAS FOR WHEN YOU SUBMITTED ONE IN 1999?

16 A. NO. THAT WAS MY FIRST HOME BUY, NO.

17 Q. AND -- BUT YOU WENT THROUGH THE URLA PROCESS IN 1999;  
18 CORRECT?

19 A. YES, I DID.

20 Q. AND THROUGH AFTER HAVING GONE THROUGH THAT PROCESS AFTER  
21 HAVING GOTTEN THE HOME, WOULD IT BE FAIR AFTER HAVING GONE  
22 THROUGH THAT PROCESS, AFTER GOING THROUGH THE URLA PROCESS THE  
23 FIRST TIME, THAT YOU UNDERSTOOD HOW AN URLA WORKED?

24 A. NOT NECESSARILY.

25 Q. YOU WENT THROUGH THE PURCHASE PROCESS WITH AN URLA?

HOLMES CROSS

1 A. RIGHT.

2 Q. AND AT THE END OF THE PROCESS YOU DID NOT UNDERSTAND HOW  
3 AN URLA WORKED; CORRECT? IS THAT WHAT YOUR TESTIMONY IS?

4 A. YES, IT IS.

5 Q. YOU DIDN'T UNDERSTAND WHAT THE INCOME FIGURES MEANT ON  
6 THAT URLA?

7 A. NO.

8 Q. OKAY. WERE YOU CONFUSED WHEN YOU SUBMITTED THAT URLA BACK  
9 IN 1999?

10 A. NO. I WAS ASSISTED WITH MY FATHER AND WELL AS -- WITH MY  
11 FATHER.

12 Q. AND, IN FACT, WHEN YOU PURCHASED THE HOUSE, THE ONE IN  
13 1999, YOUR FATHER GOT INVOLVED AS PART OF THAT PROCESS;  
14 CORRECT?

15 A. CORRECT.

16 Q. AND PART OF THE REASON HE GOT INVOLVED, DID YOU TESTIFY  
17 THAT IT WAS FOR YOU TO BE ABLE TO GET A HIGHER LOAN AMOUNT?

18 A. RIGHT.

19 Q. AND YOU UNDERSTOOD THAT YOU NEEDED HIS ASSISTANCE IN ORDER  
20 TO GET A HIGHER LOAN AMOUNT; CORRECT?

21 A. I DID UNDERSTAND THAT.

22 Q. AND PART OF THE REASON IN 1999 THAT YOU NEEDED YOUR  
23 FATHER'S ASSISTANCE TO GET A HIGHER LOAN AMOUNT IS THAT YOU  
24 UNDERSTOOD THAT INCOME WAS ONE OF THE FACTORS THAT PLAYED INTO  
25 HOW -- WHAT KIND OF A LOAN YOU WOULD GET; ISN'T THAT RIGHT?



HOLMES CROSS  
1 A. QUALIFICATION.

2 Q. QUALIFICATIONS. ONE OF WHICH WAS INCOME; CORRECT?

3 A. I DON'T KNOW WHETHER INCOME PLAYED A PART OR NOT.

4 Q. YOU DON'T -- YOU DIDN'T KNOW.

5 SO BACK IN 1999 WHEN YOU WENT THROUGH THE URLA PROCESS AND  
6 YOU PURCHASED THE HOUSE?

7 A. YES.

8 Q. YOU KNEW ABOUT SOME INFORMATIONS, BUT YOU SAY YOU DIDN'T  
9 KNOW WHETHER INCOME WAS ONE OF THOSE QUALIFICATIONS?

10 A. I SAID I DIDN'T SPECIFICALLY KNOW ABOUT URLA.

11 Q. URLA. BUT YOU KNOW YOU DID GO THROUGH AN URLA IN 1999?

12 A. I KNOW THAT I WENT THROUGH --

13 MS. GARRIDO: OBJECTION, ASKED AND ANSWERED.

14 THE COURT: I'M SORRY.

15 THE WITNESS: SORRY.

16 THE COURT: OVERRULED. YOU CAN CONTINUE WITH YOUR  
17 ANSWER.

18 THE WITNESS: I KNEW I WENT THROUGH A PROCESS TO  
19 PURCHASE A HOME. AS FAR AS THE DOCUMENTS, NO.

20 BY MR. FAZIOLI:

21 Q. AND YOU KNEW THAT WHEN YOU PURCHASED THE HOUSE IN 1999  
22 THAT YOU GOT YOUR FATHER INVOLVED; CORRECT?

23 A. YES.

24 Q. AND HE WAS INVOLVED IN ORDER TO HELP YOU TO GET A HIGHER  
25 LOAN AMOUNT; CORRECT?

HOLMES CROSS

1 A. YES.

2 Q. SO LET'S JUMP BACK TO EXHIBIT 11. AND CAN YOU PLEASE  
3 BRING UP EXHIBIT 11-4.

4 AND THIS IS INFORMATION THAT YOU PROVIDED ABOUT YOUR  
5 GAMBLING WINNINGS AND YOUR CANCELLATION OF DEBT; CORRECT?

6 A. WHAT PAGE ARE WE LOOKING AT?

7 Q. WE'RE LOOKING AT 11-4 IF YOU LOOK AT THE BOTTOM?

8 A. OKAY. YES.

9 Q. ALL RIGHT. AND THERE'S 2,256 AND IT IS CANCELLATION OF  
10 DEBT?

11 A. YES.

12 Q. AND THERE'S 9552 WINNINGS?

13 A. YES.

14 Q. AND WE'RE GOING TO QUICKLY WORK THROUGH SOME OF THESE  
15 W-2G'S THAT YOU SUBMITTED. SO THE NEXT PAGE IS 11-5 AND THIS  
16 IS A DOCUMENT, THIS IS CANCELLATION OF DEBT; CORRECT? THIS IS  
17 WHAT THE DOCUMENT INDICATES?

18 A. YES.

19 Q. AND THIS RELATES TO ONE OF THE DEBTS THAT YOU WERE ABLE TO  
20 NEGOTIATE DOWN IN CONNECTION WITH THE MORTGAGE REFINANCING;  
21 RIGHT?

22 A. IT APPEARS TO.

23 Q. AND THE DATE ON THIS IS 11-30-05. THAT'S THE DATE THAT  
24 THIS IS CANCELLED; CORRECT?

25 A. CORRECT.

HOLMES CROSS

1 Q. AND THAT'S ACTUALLY A COUPLE OF DAYS OR ABOUT A WEEK OR SO  
2 AFTER THE FIRST WIRE HIT ON THE MORTGAGE REFINANCING; CORRECT?

3 A. RIGHT.

4 Q. SO LET'S QUICKLY GO THROUGH ON 11-6. ALL RIGHT. AND IF  
5 YOU LOOK AT 11-6 AND 11-8, THESE ARE TWO WHAT ARE KNOWN AS  
6 W-2G'S; CORRECT?

7 A. YES.

8 Q. AND WHAT ARE THESE DOCUMENTS? YOU SUBMITTED THESE  
9 DOCUMENTS IN CONNECTION WITH YOUR TAX APPLICATION; RIGHT?

10 A. THESE WERE GROSS WINNINGS FROM CASINO SAN PABLO.

11 Q. AND THERE'S TWO OF THEM AND THAT'S 11-6 AND 11-8, RIGHT?  
12 AND THE FIRST ONE IS FOR \$3,125; CORRECT?

13 A. WHERE ARE YOU READING?

14 Q. 11-6, AND IT'S HARD BECAUSE THIS DOCUMENT IS -- IT'S KIND  
15 OF ROTATED TO THE SIDE. BUT DO YOU SEE IT SAYS W-2G AND THEN  
16 IT SAYS GROSS WINNINGS AND IT SAYS 3125 AND THE VERY FIRST BOX?

17 A. AND THEN I SEE 8-6-2005.

18 Q. 8-5-2005 OR 8-5?

19 A. 8 -5.

20 Q. ALL RIGHT. AND YOU SIGNED THIS DOCUMENT AT THE BOTTOM;  
21 RIGHT?

22 A. CORRECT.

23 Q. AND THIS IS THE DOCUMENT THAT THE SAN PABLO GAVE YOU WHEN  
24 YOU WON \$3,125 ON AUGUST 5TH, 2005; RIGHT?

25 A. YES.

HOLMES CROSS

1 Q. AND THEN ON PAGE 11-8, WHICH IS TWO PAGES LATER, WERE MORE  
2 WINNINGS ON THE SAME DATE; CORRECT?

3 A. CORRECT.

4 Q. AND SO THESE TWO WINNINGS OF 3125 AND THE 1426, THOSE ARE  
5 THE GROSS WINNINGS BOTH OF THOSE ON AUGUST 5TH, 2005; CORRECT?

6 A. YEAH.

7 Q. AND THAT WAS BEFORE OR AFTER YOU FINISHED THE LOAN  
8 REFINANCING; CORRECT?

9 A. AUGUST?

10 Q. YEAH, AUGUST 5, 2005.

11 A. AND THE LOAN REFINANCES.

12 Q. WAS IN NOVEMBER; CORRECT?

13 A. CORRECT.

14 Q. AND SO YOU WON THIS MONEY AHEAD OF TIME?

15 A. YES.

16 Q. AND THEN THE 11-7 IS THE -- YOUR GROSS WINNINGS AND THIS  
17 IS A DIFFERENT CASINO; CORRECT?

18 A. CACHE CREEK.

19 Q. CACHE CREEK AND THAT'S THE P.O. BOX AND THE ADDRESS OF  
20 BROOKS, CALIFORNIA; CORRECT?

21 A. CORRECT.

22 Q. AND WHEN DID YOU WIN THIS \$5,000 FROM THE CACHE CREEK  
23 CASINO RESORT?

24 A. IT SAYS 11-23-2005.

25 Q. AND THAT'S ACTUALLY TWO DAYS AFTER THE WIRE HIT YOUR

HOLMES CROSS

1 ACCOUNT; CORRECT?

2 A. CORRECT.

3 Q. OKAY. SO MOVING ONTO EXHIBIT 14, THIS IS YOUR U.S.  
4 CORPORATE INCOME TAX RETURN FOR THE YEAR 2005. DO YOU SEE  
5 THAT?

6 A. YES, I DO.

7 Q. AND THIS NOW IS FOR STAR PARTNERS SECURITY PLAN PARTNERS,  
8 INC., CORRECT?

9 A. CORRECT.

10 Q. AND THIS IS THE ENTITY THAT IS LISTED ON THAT URLA,  
11 CORRECT, AS YOUR BUSINESS, STAR PARTNERS; RIGHT?

12 A. FROM WHAT I RECALL.

13 Q. FROM WHAT YOU RECALL IT'S LISTED YOU OWN STAR PARTNERS;  
14 CORRECT?

15 A. YES.

16 Q. AND THAT BUSINESS IS WORTH ABOUT -- THAT THAT BUSINESS  
17 STAR PARTNERS IS LISTED AS BEING --

18 A. CAN I SEE THAT DOCUMENT?

19 Q. YES, YOU CAN.

20 THE COURT: WHY DON'T YOU FINISH YOUR SENTENCE FOR  
21 THE REPORTER.

22 DID YOU SAY THAT BUSINESS IS WORTH HALF A MILLION DOLLARS?

23 MR. FAZIOLI: YES.

24 THE COURT: CONTINUE. DID YOU WANT TO SHOW HER THE  
25 DOCUMENT?

1 MR. FAZIOLI: YES. LET'S GO TO EXHIBIT 18.

2 THE WITNESS: THE AMOUNT I'M NOT SURE ABOUT. IN THE  
3 SAME BOOK, 18?

4 MR. FAZIOLI: YES.

5 Q. OKAY. SO WE HAVE HEARD A LOT OF TESTIMONY ABOUT  
6 EXHIBIT 18.

7 A. OKAY.

8 Q. YOU HAVE SEEN EXHIBIT 18. LET ME DRAW YOUR ATTENTION TO  
9 PAGE 18-4 AND THEN THERE'S A SIGNATURE AT THE BOTTOM.

10 THIS IS THE OCTOBER 2005 URLA; CORRECT?

11 A. CORRECT.

12 Q. AND YOU SIGNED THIS URLA?

13 A. YES.

14 Q. AND YOU SEE THERE'S AN ACKNOWLEDGEMENT AND AGREEMENT ABOVE  
15 YOUR SIGNATURE; CORRECT?

16 A. YES.

17 Q. AND IN IT, IT SAYS THAT "EACH OF THE UNDERSIGNED  
18 SPECIFICALLY REPRESENTS TO LENDER AND TO LENDER'S ACTUAL OR  
19 POTENTIAL AGENTS, BROKERS, PROCESSORS, ATTORNEYS, INSURERS,  
20 SUCCESSORS, AND ASSIGNS AND AGREES AND ACKNOWLEDGES THAT, ONE,  
21 THE INFORMATION PROVIDED IN THIS APPLICATION IS TRUE AND  
22 CORRECT AS TO THE DATE SET FORTH OPPOSITE MY SIGNATURE AND THAT  
23 ANY INTENTIONAL OR NEGLIGENT MISREPRESENTATION OF THIS  
24 INFORMATION CONTAINED IN THIS APPLICATION WILL RESULT IN CIVIL  
25 LIABLE LIABILITY, INCLUDING MONETARY DAMAGES TO ANY PERSON WHO

HOLMES CROSS

1 MAY SUFFER ANY LOSS AS TO THE RELIANCE OF THE REPRESENTATIONS  
2 THAT I HAVE MADE IN THIS APPLICATION."

3 AND IT GOES ON ABOUT OTHER THINGS.

4 SO THAT'S WHAT IT SAID ON THE DOCUMENT YOU SIGNED;  
5 CORRECT?

6 A. CORRECT.

7 Q. SO LET'S JUMP TO THE FIRST PAGE OF THIS URLA. DO YOU MIND  
8 BLOWING UP THE TOP PART AND SEE IF WE CAN MAKE IT CLEAR.

9 SO IF YOU COULD TAKE A LOOK AT YOUR COPY OF EXHIBIT 18-2.  
10 THIS WAS AN URLA THAT WAS SUBMITTED ON YOUR BEHALF TO REFINANCE  
11 YOUR HOME; CORRECT?

12 A. CORRECT.

13 Q. AND YOU SEE THAT THE AMOUNT OF THE LOAN IS \$450,000?

14 A. YES, I DO.

15 Q. AT THE TOP. AND DID YOU PROVIDE THE INFORMATION ON THIS  
16 URLA?

17 A. NO, I DID NOT.

18 Q. YOU DID NOT?

19 A. NO.

20 Q. AND SO YOU DID NOT INDICATE THAT YOU WANTED A LOAN OF  
21 \$450,000?

22 A. NO, I DID NOT.

23 Q. AND DID YOU KNOW WHEN THIS URLA WAS SUBMITTED THE AMOUNT  
24 OF THE LOAN THAT YOU WERE ASKING FOR?

25 A. NO, I DON'T RECALL.

HOLMES CROSS

1 Q. AND YOU DON'T RECALL. AND DO YOU KNOW WHO SUBMITTED THIS  
2 INFORMATION, THE \$450,000?

3 A. I CAN ONLY SPECULATE.

4 Q. SO THIS LOAN APPLICATION WAS SUBMITTED WITH YOUR SIGNATURE  
5 BUT YOU DID NOT KNOW -- WHEN THIS WAS SUBMITTED -- OKAY.

6 LET ME ASK THIS QUESTION: WHEN THIS LOAN APPLICATION WAS  
7 SUBMITTED, DID YOU KNOW THAT THIS WAS EVEN A LOAN FOR \$450,000?

8 A. I DON'T RECALL.

9 Q. YOU DON'T RECALL?

10 A. IT'S BEEN 2005, I BELIEVE. YEAH, I DON'T RECALL.

11 Q. YOU DON'T REMEMBER. OKAY. AND THEN IT INDICATES NUMBER  
12 OF MONTHS 48 -- THAT'S PROBABLY 40 YEARS. DID YOU KNOW WHEN  
13 THIS URLA -- DID YOU PROVIDE THIS INFORMATION, THE NUMBER OF  
14 MONTHS?

15 A. NO, SIR.

16 Q. YOU DID NOT?

17 A. WHAT BLOCK ARE WE TALKING ABOUT?

18 Q. WE'RE TALKING ABOUT THE BLOCK RIGHT NEXT TO INTEREST RATES  
19 WHERE IT SAYS THE NUMBER OF MONTHS.

20 HOW ABOUT THE ADDRESS, THE PROPERTY ADDRESS. DID YOU  
21 PROVIDE THAT INFORMATION?

22 A. FROM WHAT I RECALL.

23 Q. SO YOU RECALL PROVIDING THE PROPERTY ADDRESS THAT IS ON  
24 THIS LOAN APPLICATION?

25 A. IF IT'S 312 MOONRACKER, YES.



HOLMES CROSS

1 Q. OKAY. BUT YOU SPECIFICALLY RECALL PROVIDING THAT  
2 INFORMATION; CORRECT?

3 A. RIGHT.

4 Q. AND SO YOU DID PROVIDE SOME INFORMATION THAT IS ON THIS  
5 FORM?

6 A. YES.

7 Q. OKAY. AND THEN IT SAYS, "PURPOSE OF REFINANCE, CASHOUT  
8 DEBT CONSOLIDATION." DID YOU PROVIDE THAT INFORMATION?

9 A. I BELIEVE I -- NO, I DON'T RECALL.

10 Q. YOU DON'T. SO YOU -- DID YOU KNOW WHEN THIS URLA WAS  
11 SIGNED THAT IT WAS FOR A CASHOUT OR FOR A DEBT CONSOLIDATION?

12 A. I DON'T RECALL.

13 Q. SO WHEN, WHEN THIS URLA WAS SUBMITTED ON YOUR BEHALF, DID  
14 YOU KNOW IF YOU WERE EVEN PROCEEDING WITH A CASHOUT OR A DEBT  
15 CONSOLIDATION?

16 A. YES.

17 Q. YOU DID?

18 A. YES.

19 Q. AND THEN YOU JUST DIDN'T KNOW THAT THIS URLA HAD BEEN  
20 FILED THAT HAD INDICATED THAT?

21 A. THE AMOUNT.

22 Q. THE AMOUNT. WELL, ACTUALLY I WAS SAYING THE PURPOSE. DID  
23 YOU KNOW THAT YOU WERE SUBMITTING AN URLA FOR A CASHOUT?

24 A. FOR A REFINANCING, YES.

25 Q. AND THEN THE BORROWER ERROR'S NAME AND IT HAS YOUR SOCIAL

HOLMES CROSS

1 SECURITY NUMBER AND HOME PHONE NUMBER. AND DID YOU PROVIDE  
2 THIS INFORMATION?

3 A. THE BORROWER'S NAME, YES.

4 Q. AND THE SOCIAL SECURITY NUMBER AND HOME PHONE NUMBER?

5 A. YES.

6 Q. AND WHAT ABOUT THE PRESENT ADDRESS?

7 A. YES.

8 Q. AND THEN IT SAYS NAME OF ADDRESS OF EMPLOYER FOR STAR  
9 PARTNERS SECURITY SERVICES AND THEN IT SAYS YEARS ON THE JOB,  
10 FIVE YEARS?

11 A. YES.

12 Q. AND DID YOU PROVIDE THAT INFORMATION?

13 A. YES.

14 Q. AND THE TITLE OF OWNER, YOU PROVIDED THAT INFORMATION,  
15 TOO, CORRECT?

16 A. YES.

17 Q. AND YOU INITIALED THIS DOCUMENT AT THE BOTTOM?

18 A. ARE WE ON 18-4 OR --

19 Q. 18-2, DO YOU SEE AT THE BOTTOM THOSE ARE YOUR INITIALS,  
20 CORRECT?

21 A. YES.

22 Q. AND -- OKAY. SO LET'S JUMP TO THE SECOND PAGE. DO YOU  
23 SEE AT THE TOP LEFT --

24 A. UH-HUH.

25 Q. -- OF 18. THIS IS ACTUALLY 18-3, THE SECOND PAGE OF THE

HOLMES CROSS

1 URLA. AND IT'S HARD TO -- IT'S CLEAR ON YOUR COPY, BUT IT SAYS  
2 GROSS MONTHLY INCOME AND THEN BASE EMPLOYMENT INCOME AND THEN  
3 IT SAYS BORROWER.

4 WHO WAS THE BORROWER ON THIS URLA? YOU WERE THE BORROWER  
5 ON THIS URLA; CORRECT?

6 A. CORRECT.

7 Q. AND DO YOU SEE THE NUMBER THAT IS LISTED THERE FOR BASE  
8 EMPLOYMENT INCOME AND IT SAYS \$15,000?

9 A. YES, I DO.

10 Q. YOU PROVIDED THAT INFORMATION, THE \$15,000 NUMBER?

11 A. NO, NOT THAT I RECALL.

12 Q. YOU DON'T RECALL.

13 A. NO.

14 Q. OKAY. IS THAT NUMBER CORRECT?

15 A. NO.

16 Q. THAT'S AN INCORRECT NUMBER, THE NUMBER OF THE \$15,000  
17 NUMBER OF THE GROSS NUMBER IS INCORRECT?

18 A. DEFINITELY.

19 Q. AND YOU DIDN'T HAVE ANNUAL INCOME OF \$15,000 DURING THE  
20 TIME THAT THIS URLA WAS SUBMITTED?

21 A. NO, SIR.

22 Q. AND DO YOU SEE BELOW THEN THERE'S A SECTION THAT SAYS THAT  
23 LISTS THE CHECKING AND ACCOUNT BALANCE.

24 A. WHERE IT SAYS WESTAMERICA?

25 Q. YEAH, IT SAYS WESTAMERICA.

HOLMES CROSS

1 A. YES, I DO.

2 Q. AND DO YOU SEE HOW IT LISTS THE NAME AND ADDRESS OF BANK  
3 AND IT SAYS WESTAMERICA THERE, DO YOU SEE THAT?

4 A. YES.

5 Q. AND DID YOU PROVIDE THAT INFORMATION WESTAMERICA?

6 A. YES.

7 Q. AND YOU DID. SO YOU -- SO THAT YOU RECALL THAT YOU  
8 COMMUNICATED TO OAKLAND FUNDING THAT YOU HAD A BANK ACCOUNT AT  
9 WESTAMERICA, IS THAT WHAT YOU'RE SAYING?

10 A. I RECALL THAT.

11 Q. YOU RECALL THAT. AND WHAT ABOUT THE ACCOUNT NUMBER, DO  
12 YOU RECALL COMMUNICATING AN ACCOUNT NUMBER?

13 A. IT APPEARS THAT I WOULD HAVE.

14 Q. YOU DID. OKAY.

15 A. YEAH.

16 Q. BUT, IN FACT, YOU DID NOT HAVE AN ACCOUNT NUMBER IN  
17 THAT -- YOU DIDN'T HAVE SUCH AN ACCOUNT NUMBER AT THAT TIME; IS  
18 THAT CORRECT?

19 A. I DON'T KNOW THAT I RECALL THAT ACCOUNT NUMBER, BUT I DID  
20 HAVE A WESTAMERICA ACCOUNT NUMBER.

21 Q. AND THEN IT SAYS LIST CHECKING AND SAVINGS ACCOUNT  
22 BALANCES, AND THEN THERE'S A NUMBER FOR CASH OR MARKET VALUE  
23 AND IT LISTED \$15,000. DO YOU SEE THAT?

24 A. YES.

25 Q. AND DID YOU PROVIDE THAT INFORMATION TO THE BANK, TO THE

HOLMES CROSS  
1 BROKER?

2 A. NOT THAT I RECALL.

3 Q. AND IS THAT INFORMATION CORRECT?

4 A. NO.

5 Q. AND THAT WASN'T CORRECT AT THE TIME?

6 A. NO.

7 Q. OKAY. AND YOU INITIALED THIS BOTTOM PAGE HERE ON PAGE  
8 18-3; CORRECT?

9 A. CORRECT.

10 Q. LET'S GO TO THE NEXT PAGE. AND LET'S BRING UP THE TOP.  
11 AND IT SAYS ASSETS AND LIABILITIES.

12 AND CAN YOU READ WHAT IT SAYS UNDER ASSETS AND  
13 LIABILITIES?

14 A. ARE WE ON 18-4?

15 Q. WE'RE ON 18-4, YEAH, RIGHT AT THE TOP WHERE IT SAID  
16 SCHEDULE OF REAL ESTATE OWNED?

17 A. IT APPEARS TO HAVE -- LET ME SEE. ASSETS AND LIABILITIES.  
18 THIS 600,000 OR 800,000.

19 Q. WELL, THERE'S AN ADDRESS THERE UNDER PROPERTY ADDRESS,  
20 ISN'T THERE?

21 A. UH-HUH.

22 Q. AND WHAT IS THE ADDRESS THAT IS LISTED THERE?

23 A. 312 MOONRACKER DRIVE.

24 Q. AND WHAT IS THE CITY ADDRESS?

25 A. VALLEJO, CALIFORNIA.

HOLMES CROSS

1 Q. AND DID YOU PROVIDE THAT INFORMATION?

2 A. I -- FROM WHAT I RECALL.

3 Q. YOU RECALL PROVIDING THAT INFORMATION ABOUT THE ADDRESS OF  
4 THE PROPERTY?

5 A. YES.

6 Q. AND THEN IT SAYS PRESENT MARKET VALUE AND IT SAYS WELLS  
7 FARGO \$600,000. DO YOU SEE THAT?

8 A. YES, I DID.

9 Q. AND DID YOU PROVIDE THAT INFORMATION?

10 A. NOT FROM WHAT I RECALL. I KNOW -- I DON'T KNOW MARKET  
11 VALUE.

12 Q. YOU DON'T KNOW WHAT?

13 A. MARKET VALUE.

14 Q. WHAT ABOUT AT THE TIME?

15 A. I DIDN'T KNOW IT AT THE TIME.

16 Q. SO YOU'RE SAYING THAT AT THE TIME YOU DIDN'T KNOW WHAT THE  
17 MARKET VALUE OF THE HOUSE WAS?

18 A. NO.

19 Q. AND HAD ANYONE AT THAT TIME TOLD YOU PRIOR TO SUBMITTING  
20 THIS APPLICATION THAT THE MARKET VALUE OF YOUR HOUSE WAS  
21 \$600,000?

22 A. NOT THAT I RECALL.

23 Q. AND THERE'S -- DO YOU SEE UNDER DECLARATIONS IT SAYS, "ARE  
24 YOU A PARTY TO A LAWSUIT"?

25 A. IS THAT OVER HERE ON THE RIGHT-HAND SIDE?

HOLMES CROSS

1 Q. IT'S ON THE RIGHT-HAND SIDE UNDER DECLARATIONS.

2 A. YES.

3 Q. AND DO YOU SEE UNDER SUBPOINT A IT SAYS, "ARE THERE ANY  
4 OUTSTANDING JUDGMENTS AGAINST YOU"? AND IT SAYS, YES OR NO?

5 A. RIGHT.

6 Q. AND IT SAYS, "NO"?

7 A. YES.

8 Q. AND YOU PROVIDED THAT INFORMATION?

9 A. YES, FROM WHAT I RECALL.

10 Q. AND THE NEXT ONE, "HAVE YOU BEEN DECLARED BANKRUPT WITHIN  
11 THE PAST SEVEN YEARS?" AND IT SAYS, "NO."

12 DID YOU PROVIDE THAT INFORMATION THAT MADE ITS WAY UNDER  
13 THIS URLA?

14 A. FROM WHAT I RECALL.

15 Q. AND THEN THE NEXT ONE SAYS, "HAVE YOU HAD PROPERTY  
16 FORECLOSED UPON OR GIVEN TITLE OR DEED OR LIEU THEREOF IN THE  
17 LAST SEVEN YEARS?" AND DO YOU SEE THAT THE ANSWER SAYS, "NO"?

18 DO YOU SEE THAT?

19 A. YES.

20 Q. AND IS THAT ANSWER, "NO," IS THAT INFORMATION THAT YOU  
21 PROVIDED ON THAT URLA?

22 A. FROM WHAT I RECALL.

23 Q. OKAY.

24 A. IT'S BEEN SUCH A LONG TIME.

25 Q. I UNDERSTAND. BUT IT ALSO SAYS THAT "ARE YOU A PARTY TO A

HOLMES CROSS

1 LAWSUIT?" AND THEN THAT ANSWER IS, "NO"?

2 A. CORRECT.

3 Q. AND DID YOU SUBMIT THAT INFORMATION, "ARE YOU A PARTY TO A  
4 LAWSUIT"?

5 A. FROM WHAT I RECALL, BUT I'M NOT QUITE SURE. THE MAIN  
6 INFORMATION I SHARED WITH YOU.

7 Q. WELL, DID YOU --

8 A. THAT I RECALL.

9 Q. I'M SORRY. THE QUESTION IS DID YOU PROVIDE THE  
10 INFORMATION -- THE ANSWER "NO" TO THIS QUESTION "ARE YOU A  
11 PARTY TO A LAWSUIT?" THAT IS REFLECTED HERE ON THIS  
12 DECLARATIONS FORM?

13 A. I DON'T KNOW. I CAN'T RECALL ANY OF THE INFORMATION  
14 EXCEPT FOR WHAT I HAVE GIVEN YOU ALREADY, SOCIAL SECURITY.

15 Q. SO I JUST WANT TO BE CLEAR.

16 A. OKAY.

17 Q. SO FOR A THROUGH C, AND CORRECT ME IF I'M WRONG, YOUR  
18 TESTIMONY IS THAT YOU RECALL ANSWERING -- GIVING THE  
19 INFORMATION NO; ISN'T THAT CORRECT?

20 A. THAT I CAN'T RECALL CERTAIN, BE CERTAIN OF ALL OF THE  
21 INFORMATION THAT I HAVE GIVEN HERE.

22 Q. OKAY. I THOUGHT YOU HAD JUST TESTIFIED THAT FOR, YOU  
23 KNOW, "ARE THERE ANY OUTSTANDING JUDGMENTS AGAINST YOU?" AND  
24 CORRECT ME IF I'M WRONG, DID I ASK, "DID YOU PROVIDE THAT  
25 INFORMATION"? AND I THOUGHT YOU SAID AS YOU RECALLED "NO"?



HOLMES CROSS

1 A. AS I RECALL, NO.

2 Q. AND AGAIN FOR B, DO YOU RECALL PROVIDING THE INFORMATION  
3 NO AS TO QUESTION B, "HAVE YOU BEEN DECLARED BANKRUPT FOR THE  
4 PAST SEVEN YEARS"?

5 DO YOU RECALL THAT YOU ANSWERED "NO" TO THAT QUESTION?

6 A. YES. IT'S BEEN A LONG TIME, BUT, YES, I PROBABLY DID  
7 ANSWER "NO" TO ALL THREE OF THOSE QUESTIONS.

8 Q. BUT THE FOURTH QUESTION IS "ARE YOU A PARTY TO A LAWSUIT?"  
9 YOUR TESTIMONY IS YOU DON'T REMEMBER WHETHER YOU ANSWERED YES  
10 OR NO TO THAT QUESTION?

11 A. IF I DID ANSWER IT, I ANSWERED NO.

12 Q. SO LET'S MOVE ON TO THE NEXT URLA, WHICH IS EXHIBIT 43.

13 A. IN THE SAME BINDER?

14 Q. NO, WE HAVE A NEW BINDER. THIS IS THE SECOND BINDER, THE  
15 ONE THAT SAYS ON THE OUTSIDE TRIAL EXHIBITS 22 TO 100.

16 A. OKAY.

17 Q. ALL RIGHT. HAVE YOU HAD A CHANCE TO TAKE A LOOK AT  
18 EXHIBIT 43?

19 A. YES.

20 Q. AND DO YOU SEE AT THE TOP IT SAYS UNIFORM RESIDENTIAL LOAN  
21 APPLICATION. WE'VE BEEN CALLING THIS THE URLA; CORRECT?

22 A. CORRECT.

23 Q. AND THIS IS THE FINAL STEP IN THAT PROCESS THAT ULTIMATELY  
24 RESULTED IN YOUR TAKING \$147,000 OUT OF THE HOUSE; CORRECT?

25 A. CORRECT.

HOLMES CROSS

1 Q. AND YOU SIGNED THIS URLA?

2 A. YES, THAT IS MY SIGNATURE.

3 Q. AND DO YOU SEE AT THE TOP IT INDICATES THAT THE AMOUNT OF  
4 THE LOAN AND YOU SEE THAT THE LOAN IS \$338,000?

5 A. YES.

6 Q. AND THAT'S BECAUSE THERE WAS A NEGOTIATION THAT TOOK PLACE  
7 BETWEEN YOU AND THE BANK AND ULTIMATELY THE AMOUNT OF THE LOAN  
8 WENT DOWN FROM 450 TO 338; CORRECT?

9 A. BETWEEN ME AND THE BANK.

10 Q. WELL, YOU WERE INVOLVED IN THAT PROCESS; CORRECT?

11 A. YES.

12 Q. AND YOU UNDERSTOOD WHAT WAS THE AMOUNT OF THE LOAN, THE  
13 REFINANCING LOAN THAT YOU WERE TAKING ON YOUR HOUSE; CORRECT?

14 A. YES.

15 Q. AND YOU KNOW THAT IT WAS \$338,000?

16 A. YES.

17 Q. AND THAT INFORMATION, THE \$338,000, DID YOU PROVIDE THAT  
18 INFORMATION THAT WAS ON THIS URLA?

19 A. NO.

20 Q. AND THE SUBJECT PROPERTY ADDRESS IS 312 MOONRACKER DRIVE,  
21 VALLEJO, CALIFORNIA. DID YOU PROVIDE THE INFORMATION ON THIS  
22 URLA?

23 A. YES.

24 Q. AND YOU PROVIDED THAT INFORMATION?

25 A. YES.

Q. AND WHAT ABOUT AT THE BOTTOM WHERE IT SAYS THE NAME AND ADDRESS OF EMPLOYER, STAR PARTNERS SECURITY SERVICES?

A. YES.

Q. AND THEN IT'S GOT YEARS ON THE JOB, FIVE YEARS.

AND DID YOU PROVIDE THAT INFORMATION?

A. I'M NOT SURE EXACTLY ALL OF THE INFORMATION ON THE URLA THAT WAS PROVIDED BY ME OR PROVIDED BY THE LENDER OR THE MORTGAGE COMPANY THAT FILLS THIS OUT.

Q. SO YOU CAN'T RULE OUT THAT YOU PROVIDED ALL OF THE INFORMATION ON THE URLA?

A. I CAN RULE OUT THAT I DID NOT PROVIDE ALL OF THE INFORMATION ON URLA.

Q. SO YOU CAN RULE OUT THAT YOU PROVIDED ALL OF THE INFORMATION ON THE URLA?

A. I SAID I CAN RULE OUT THAT I DID NOT PROVIDE ALL OF THE INFORMATION ON THE URLA.

Q. OKAY. AND YOU SEE THAT YOU INITIALED THIS DOCUMENT AT THE BOTTOM; CORRECT?

A. YES.

Q. ALL RIGHT. THEN JUMPING TO PAGE 2 AND YOU SEE AT THE TOP IT SAYS MONTHLY INCOME AND COMBINED HOUSING EXPENSE INFORMATION AND IT SAYS BORROWER THERE.

A. RIGHT.

Q. AND YOU WERE THE BORROWER ON THIS URLA; CORRECT?

A. YES.

Q. AND THERE'S INFORMATION IN THERE. YOUR INCOME IS LISTED AS \$15,000 BASE EMPLOYMENT INCOME?

A. YES.

Q. AND, NOW, FOR THIS NOVEMBER 14TH, 2005, DID YOU PROVIDE THAT INFORMATION, THAT \$15,000?

A. I DID NOT PROVIDE INCOME ON EITHER ONE OF THESE DOCUMENTS.

Q. AND YOU RECALL THAT YOU DID NOT PROVIDE INFORMATION, THAT INFORMATION ON EITHER ONE OF THESE DOCUMENTS.

A. YES.

Q. AND IS THAT -- PUTTING ASIDE THAT QUESTION, IS THAT NUMBER -- IS THAT INFORMATION CORRECT ON THAT URLA?

A. NO, SIR.

Q. AND THEN MOVING DOWN AGAIN DO YOU SEE IT SAYS CHECKING AND SAVINGS ACCOUNTS BELOW? LET ME BLOW UP, IT SAYS WESTAMERICA.

A. WHAT PAGE ARE WE ON?

Q. WE'RE ON THE SAME PAGE 43-2. AND IT SAYS CHECKING AND SAVINGS ACCOUNTS BELOW?

A. UH-HUH.

Q. AND IT'S GOT WESTAMERICA AND IT HAS AN ACCOUNT NUMBER AND THEN IT HAS A CASH OR MARKET VALUE. AND THE CHECKING ACCOUNT -- THE ACCOUNT BALANCE THAT IS LISTED THERE IS \$15,000. DO YOU SEE THAT?

A. YES.

Q. NOW, THIS URLA CONTAINS THE INFORMATION THAT YOU HAD A WESTAMERICA ACCOUNT. DID YOU PROVIDE THAT INFORMATION?

HOLMES CROSS

1 A. THAT I HAD A WESTAMERICA ACCOUNT, YES.

2 Q. THAT YOU DID. YOU PROVIDED THE FACT THAT YOU HAD A  
3 WESTAMERICA ACCOUNT. WHAT ABOUT THE BALANCE ON THAT  
4 WESTAMERICA ACCOUNT?

5 A. I CAN BE MOST POSITIVE THAT I DID NOT PROVIDE THAT  
6 INFORMATION.

7 Q. SO YOU HAVE A SPECIFIC RECOLLECTION THAT ALTHOUGH YOU  
8 PROVIDED THE NAME OF THE BANK, YOU DID NOT PROVIDE THE ACCOUNT  
9 BALANCE. IS THAT WHAT YOU'RE SAYING?

10 A. YES.

11 Q. AND WHAT ABOUT THE ACCOUNT NUMBER?

12 A. POSSIBLY. I CAN'T RECALL THAT I PROVIDED THE ACCOUNT  
13 NUMBER. I CAN RECALL THAT I -- THAT THAT WAS MY BANK AND THAT  
14 THERE WAS SPECIFIC QUESTIONS THAT THE LENDER ASKED.

15 Q. AND THAT YOU RESPONDED TO THOSE QUESTIONS?

16 A. YES.

17 Q. AND THAT YOU PUT THE INFORMATION THAT MADE IT ONTO THIS  
18 FORM?

19 A. I DIDN'T PUT THE INFORMATION ON THE FORM, NO. I DIDN'T  
20 FILL OUT THIS FORM.

21 Q. OKAY. AT ALL?

22 A. NO. I DIDN'T TYPE ANY OF THIS -- IT'S TYPED IN. I DIDN'T  
23 TYPE ANY OF IT IN.

24 Q. DID YOU PROVIDE ANY OF THE INFORMATION THAT IS ON THIS  
25 FORM?

HOLMES CROSS

1 A. SOME OF THE INFORMATION SUCH AS MY -- WHAT I HAVE STATED  
2 BEFORE.

3 Q. OKAY. AND JUST NOT THAT THE OTHER TOPICS THAT WE TALKED  
4 ABOUT?

5 A. NOT THAT I RECALL, NO.

6 Q. DO YOU SEE WHERE IT SAYS REAL ESTATE OWNED, INTERMARKET  
7 VALUE FROM SCHEDULE OF REAL ESTATE OWNED AND IT SAYS \$600,000?

8 A. RIGHT.

9 Q. AND DID YOU PROVIDE THAT INFORMATION?

10 A. NO, I HAVE NO KNOWLEDGE OF REAL ESTATE APPRAISAL  
11 INFORMATION, NO, THAT I PROVIDED.

12 Q. AND PUTTING ASIDE YOUR KNOWLEDGE OF REAL ESTATE, DID YOU  
13 TELL THE BANK OR TELL -- COMMUNICATE THAT YOU OWNED \$600,000 OF  
14 REAL ESTATE?

15 A. NO.

16 Q. AND PRIOR TO SUBMITTING THIS URLA, HAD ANYONE TOLD YOU  
17 THAT THE MOONRACKER PROPERTY WAS WORTH \$600,000?

18 A. I BELIEVE FROM MY RECOLLECTION THERE WAS A LETTER FROM A  
19 TRUSTEE THAT STATED THAT.

20 Q. OKAY. AND HE TOLD YOU THAT THE PROPERTY WAS WORTH  
21 \$600,000?

22 A. I BELIEVE.

23 Q. AND SO YOU KNEW AT THE TIME THAT THIS -- OR THAT IT MAY --  
24 YOU WERE TOLD BY THE TRUSTEE --

25 A. UH-HUH.

HOLMES CROSS

1 Q. -- THAT THIS PROPERTY WAS WORTH \$600,000; CORRECT?

2 A. YES.

3 Q. BUT IT'S YOUR TESTIMONY THAT YOU WERE NOT THE INDIVIDUAL  
4 WHO PROVIDED THE INFORMATION THAT THE PROPERTY WAS WORTH  
5 \$600,000 THAT IS ON THIS FORM?

6 A. NO, I WOULD NOT KNOW OF THE MARKET VALUE OF THE PROPERTY.

7 Q. AND IT SAYS NET WORTH OF BUSINESS OWNED. AND WHAT IS THE  
8 BUSINESS THAT IS LISTED ON THIS URLA THAT YOU OWNED, STAR  
9 PARTNERS?

10 A. STAR PARTNERS SECURITY.

11 Q. AND THE NET LISTED IS WORTH HALF A MILLION DOLLARS;  
12 CORRECT?

13 A. ON THIS URLA, YES.

14 Q. ON THE URLA. DID YOU PROVIDE THE INFORMATION OF THE NET  
15 WORTH OF YOUR BUSINESS?

16 A. NO, IT HAS NEVER BEEN WORTH THAT.

17 Q. OKAY. AND YOU DIDN'T HAVE TOTAL ASSETS OF \$1.15 MILLION  
18 AS LISTED AT THE BOTTOM; CORRECT?

19 A. NO, SIR.

20 Q. AND THEN IT'S INITIALED THERE FOR BORROWER THERE AT THE  
21 BOTTOM? AND YOU INITIALED THAT; CORRECT?

22 A. YES, THAT IS MY INITIALS.

23 Q. AND THEN JUMPING ONTO THE NEXT PAGE FOR ASSETS AND  
24 LIABILITIES DO YOU SEE HOW THERE'S A PROPERTY ADDRESS THAT IS  
25 LISTED THERE 312 MOONRACKER DRIVE?

HOLMES CROSS

1 A. YES.

2 Q. AND VALLEJO, CALIFORNIA?

3 A. YES.

4 Q. AND THEN MARKET VALUE IS LISTED AS \$600,000. DID YOU  
5 PROVIDE THAT INFORMATION?

6 A. NOT THAT -- NO. I RECALL I PROVIDED MY ADDRESS.

7 Q. YOU PROVIDED YOUR ADDRESS?

8 A. I KNOW NO MARKET VALUE.

9 Q. AND, AGAIN, THERE'S A SERIES OF DECLARATIONS HERE AND IT  
10 SAYS, "ARE THERE ANY OUTSTANDING JUDGMENTS AGAINST YOU?" AND  
11 THE ANSWER IS "NO."

12 AND DID YOU PROVIDE THAT INFORMATION -- DID YOU PROVIDE  
13 THAT "NO" ANSWER TO QUESTION A?

14 A. I DON'T RECALL, BUT POSSIBLY I COULD HAVE, BUT I DON'T  
15 RECALL.

16 Q. AND WHAT ABOUT QUESTION B, THE NO ANSWER TO QUESTION B?

17 A. WHAT IS THAT?

18 Q. "HAVE YOU BEEN DECLARED BANKRUPT WITHIN THE PAST  
19 SEVEN YEARS"?

20 A. I DON'T RECALL BUT POSSIBLY.

21 Q. AND WHAT ABOUT QUESTIONS D, "ARE YOU A PARTY TO A  
22 LAWSUIT"? DID YOU PROVIDE THAT INFORMATION?

23 A. I DON'T RECALL BUT POSSIBLY.

24 Q. AND THEN THERE'S A SIGNATURE AT THE BOTTOM AND THE SAME  
25 ACKNOWLEDGEMENT AND YOU SIGNED THAT DOCUMENT; CORRECT?



HOLMES CROSS  
1 A. YES.

2 THE COURT: FOLKS, IF YOU WANT TO STAND AND STRETCH.

3 (PAUSE IN PROCEEDINGS.)

4 BY MR. FAZIOLI:

5 Q. SO I THINK YOUR TESTIMONY ABOUT THE -- WHERE DID YOU SIGN  
6 THE FIRST URLA, THE ONE WE TALKED ABOUT, EXHIBIT 18?

7 A. I DON'T RECALL. POSSIBLY -- I DON'T RECALL.

8 Q. DID YOU SIGN IT AT HOME?

9 A. NO.

10 Q. AND DID YOU LOOK AT IT BEFORE YOU SIGNED IT?

11 A. PROBABLY NOT.

12 Q. DID YOU READ IT BEFORE YOU SIGNED IT?

13 A. MOST LIKELY NOT.

14 Q. AND WHAT ABOUT THE SECOND URLA, DID YOU READ THAT BEFORE  
15 YOU SIGNED IT?

16 A. NOT THAT I RECALL, NO.

17 Q. I'M GOING TO SHOW YOU WHAT HAS BEEN MARKED AS GOVERNMENT'S  
18 EXHIBIT 236, 237, AND 238.

19 MAY I APPROACH?

20 THE COURT: YES. MR. FAZIOLI, THESE ARE NOT IN THE  
21 BINDERS?

22 MR. FAZIOLI: THEY ARE NOT, AND I HAVE A COPY FOR  
23 THE COURT.

24 Q. CAN YOU PLEASE TAKE A LOOK AT GOVERNMENT'S EXHIBIT 236,  
25 237, AND 238.

HOLMES CROSS

1 HAVE YOU HAD AN OPPORTUNITY TO TAKE A LOOK AT GOVERNMENT'S  
2 EXHIBIT 236, 237 --

3 A. YES, I HAVE.

4 Q. -- AND 238? WHAT IS GOVERNMENT'S EXHIBIT 236?

5 A. IT APPEARS IT'S A UNIFORM RESIDENTIAL LOAN APPLICATION.

6 Q. IS THIS THE UNIFORM RESIDENTIAL LOAN APPLICATION THAT YOU  
7 SIGNED ON OCTOBER 30TH, 2009?

8 A. IT APPEARS TO BE MY SIGNATURE, AND I COULD ONLY IMAGINE  
9 THAT I SIGNED IT. IT'S BEEN SO LONG AGO. THIS IS MY  
10 SIGNATURE.

11 MS. LIE: YOUR HONOR, I'M GOING TO OBJECT BRIEFLY.  
12 IF WE COULD HAVE THE CHARACTERIZATION OF THE YEAR. THE COPY I  
13 HAVE IS 1999.

14 THE WITNESS: THAT'S WHAT I HAVE.

15 MR. FAZIOLI: I'M SORRY. I MISSPOKE.

16 Q. YOU SIGNED THIS DOCUMENT ON OCTOBER 30TH, 1999; CORRECT?

17 A. YES.

18 Q. AND IT RELATES TO A MORTGAGE APPLIED FOR 312 MOONRACKER  
19 DRIVE, VALLEJO, CALIFORNIA?

20 A. YES, IT DOES.

21 Q. AND IN THE AMOUNT OF \$184,000?

22 A. AND HOW MUCH?

23 Q. THE AMOUNT OF \$184,000?

24 A. YES.

25 MR. FAZIOLI: YOUR HONOR, AT THIS TIME WE WOULD MOVE

GOVERNMENT'S EXHIBIT 236 INTO EVIDENCE.

MS. GARRIDO: SUBMIT IT.

THE COURT: IT'S RECEIVED.

(GOVERNMENT'S EXHIBIT 236 WAS RECEIVED IN EVIDENCE.)

BY MR. FAZIOLI:

Q. WE DON'T HAVE THIS LOADED ON THE COMPUTER YET SO I'M JUST  
GOING TO ASK YOU A COUPLE OF QUESTIONS?

A. OKAY.

Q. WHO SIGNED OR WHO WAS ON THIS UNIFORM RESIDENTIAL LOAN  
APPLICATION?

A. MY FATHER, LEONARD PAIGE.

Q. AND GOVERNMENT'S EXHIBIT 237?

A. MY FATHER LEONARD PAIGE.

Q. AND LET'S TAKE IT A STEP AT A TIME. WHAT IS GOVERNMENT'S  
EXHIBIT 237?

A. IT'S A UNIFORM RESIDENTIAL LOAN APPLICATION.

Q. AND IT'S ANOTHER URLA; CORRECT?

A. CORRECT, IF THAT'S THE TERM FOR IT.

Q. YEAH, IT'S VERY SIMILAR TO THE TWO URLA'S THAT WE TALKED  
ABOUT THAT WERE SUBMITTED IN 2005; CORRECT?

A. YES.

Q. AND THIS ONE IS ALSO FOR 1999, CORRECT, GOVERNMENT'S  
EXHIBIT 237?

A. THESE ARE FROM 1999, YES.

Q. AND IT ALSO RELATES TO A MORTGAGE LOAN THAT YOU APPLIED

HOLMES CROSS

1 FOR, FOR THE 312 MOONRACKER DRIVE IN VALLEJO, CALIFORNIA;  
2 CORRECT?

3 A. CORRECT.

4 Q. AND YOU WERE ONE OF THE BORROWERS ON THAT LOAN?

5 A. YES.

6 MR. FAZIOLI: YOUR HONOR, AT THIS TIME THE UNITED  
7 STATES WOULD MOVE GOVERNMENT'S EXHIBIT 237 INTO EVIDENCE.

8 MS. GARRIDO: SUBMIT IT.

9 THE COURT: RECEIVED.

10 (GOVERNMENT'S EXHIBIT 237 WAS RECEIVED IN EVIDENCE.)

11 BY MR. FAZIOLI:

12 Q. AND THEN DRAWING YOUR ATTENTION TO GOVERNMENT'S  
13 EXHIBIT 238, IS THIS ANOTHER URLA THAT YOU SUBMITTED IN  
14 CONNECTION WITH THE PURCHASE OF YOUR PROPERTY?

15 A. YES, IT'S MY SIGNATURE.

16 Q. AND WHAT IS THE AMOUNT THAT IS LISTED AT THE TOP?

17 A. OF 238?

18 Q. YES.

19 A. THAT IS 250 -- THAT IS 2000 -- 250K.

20 Q. AND WHAT WAS THE ULTIMATE AMOUNT OF THE LOAN THAT YOU  
21 RECEIVED ON THE 312 MOONRACKER PROPERTY WHEN YOU PURCHASED IT  
22 BACK IN --

23 A. I DON'T QUITE RECALL.

24 Q. AND -- BUT THAT'S YOUR SIGNATURE AT THE BOTTOM OF  
25 EXHIBIT 238 OR, YEAH, 238?

HOLMES CROSS

1 A. YES. SO THIS IS WHERE THE LOAN AMOUNT?

2 MR. FAZIOLI: YOUR HONOR, WE MOVE EXHIBIT 238 INTO  
3 EVIDENCE.

4 MS. GARRIDO: SUBMIT IT.

5 THE COURT: IT'S RECEIVED.

6 (GOVERNMENT'S EXHIBIT 238 WAS RECEIVED IN EVIDENCE.)

7 BY MR. FAZIOLI:

8 Q. NOW, I THINK YOU PREVIOUSLY TESTIFIED ON DIRECT  
9 EXAMINATION THAT YOU WORKED FOR YOUR FATHER AT PAIGE SECURITY;  
10 IS THAT CORRECT?

11 A. YES.

12 Q. AND WHAT WAS YOUR STARTING POSITION AT PAIGE SECURITY IN  
13 TERMS OF YOUR TITLE OR POSITION?

14 A. I WORKED AS A SECURITY SPECIAL EVENT OFFICER.

15 Q. AND DID YOU SUBSEQUENTLY GET PROMOTED -- AND THEN WHEN DID  
16 YOU START -- I THINK YOU SAID YOU STARTED WORKING PART-TIME AT  
17 PAIGE SECURITY; IS THAT CORRECT?

18 A. MORE OR LESS, YES.

19 Q. AND YOU STARTED WORKING PART-TIME I THINK IT WAS THE LATE  
20 '90S, EARLY 1990'S; IS THAT CORRECT?

21 A. THE '80S.

22 Q. WHEN DID YOU START?

23 A. WHEN I STARTED APPROXIMATELY '86 OR '87, I BELIEVE, AND  
24 THEN I MOVED FORWARD.

25 Q. AND THEN YOU STARTED WORKING AND THEN YOU EVENTUALLY

HOLMES CROSS

1 STARTED WORKING FULL TIME; CORRECT?

2 A. YES.

3 Q. AND WHEN WAS IT, AGAIN, THAT YOU STARTED WORKING FULL TIME  
4 FOR PAIGE SECURITY SERVICE?

5 A. I BELIEVE AROUND THE TIME OF '97 OR '99.

6 Q. AND THEN WHEN WAS IT THAT YOU WERE LAID OFF?

7 A. IN 2002.

8 Q. OKAY. WHAT WAS THE HIGHEST POSITION THAT YOU REACHED AT  
9 PAIGE SECURITY?

10 A. VICE PRESIDENT OF OPERATIONS.

11 Q. AND WHAT WERE SOME OF YOUR PROFESSIONAL RESPONSIBILITIES  
12 AS VICE PRESIDENT OF OPERATIONS AT PAIGE SECURITY?

13 A. I WAS RESPONSIBLE FOR DAY-TO-DAY OPERATIONS OF MANAGING OF  
14 ALL SECURITY PROFESSIONALS THROUGHOUT NORTHERN CALIFORNIA,  
15 SOUTHERN CALIFORNIA, COSTA RICA, AND SOME PARTS OF SOUTH AFRICA  
16 THAT HE HAD.

17 Q. AND HOW MANY PEOPLE DID YOU MANAGE AT THAT TIME?

18 A. I WOULD SAY ANYWHERE BETWEEN 175 TO 2500 OR MORE.

19 Q. YOU MANAGED 2500 PEOPLE?

20 A. YES, 2,500. YES.

21 Q. SO 2500 -- SO IN YOUR POSITION AS VP OF OPERATIONS YOU  
22 MANAGED 2500 PEOPLE. WAS THAT ALL OF THE PEOPLE FOR PAIGE  
23 SECURITY OR WAS YOUR JOB AS VP OF OPERATIONS YOU WERE A CERTAIN  
24 SUBSECTION WITHIN PAIGE SECURITY?

25 A. NO, I WAS THE VICE PRESIDENT OF OPERATIONS FOR PAIGE

HOLMES CROSS  
1 SECURITY.

2 Q. THE ENTIRETY?

3 A. THE ENTIRE.

4 Q. AND YOU SUPERVISED 2500 PEOPLE?

5 A. AT LEAST OR AROUND THAT FIGURE, BETWEEN 17 TO 25. I DON'T  
6 HAVE THE EXACT NUMBER.

7 Q. AND WHO DID YOU REPORT TO? WHO WAS YOUR SUPERVISOR AT  
8 PAIGE SECURITY?

9 A. LEONARD PAIGE.

10 Q. AND HE WAS THE HEAD OF PAIGE SECURITY AT THE TIME;  
11 CORRECT?

12 A. YES.

13 Q. AND YOU KNEW AT THE TIME YOU WERE WORKING AT PAIGE  
14 SECURITY ABOUT YOUR FATHER'S DECISION-MAKING PROCESS WITH HIS  
15 BUSINESS; IS THAT CORRECT?

16 A. NO, NOT NECESSARILY.

17 Q. THAT NEVER CAME UP IN YOUR CONTEXT OF BEING THE VP OF  
18 OPERATIONS?

19 A. NO. I WAS MAINLY OUT IN THE FIELD WORKING WITH SECURITY  
20 PROFESSIONALS OUT IN THE FIELD WITH THIS CONTRACT. SO I DID  
21 NOT HAVE VERY MUCH DAY-TO-DAY INTERACTION WITHIN THE OFFICE  
22 WITH HIM.

23 Q. AND WHAT ABOUT INTERACTION THROUGH OTHER WAYS? E-MAIL?  
24 PHONE? YOU INTERACTED -- YOUR FATHER WAS YOUR SUPERVISOR AT  
25 PAIGE SECURITY; CORRECT?

HOLMES CROSS

1 A. RIGHT.

2 Q. AND THERE WAS NO ONE BETWEEN YOU AND YOUR FATHER IN TERMS  
3 OF DOING YOUR DAY-TO-DAY OPERATIONS; CORRECT?

4 A. NO.

5 THE COURT: I'M SORRY. NO, THAT'S NOT CORRECT?

6 THE WITNESS: THERE WAS NO OTHER PERSON.

7 BY MR. FAZIOLI:

8 Q. YOU REPORTED DIRECTLY TO YOUR FATHER?

9 A. I REPORTED DIRECTLY TO HIM.

10 Q. AND HOW MANY OTHER VICE PRESIDENTS WERE THERE AT PAIGE  
11 SECURITY AT THE POINT THAT YOU WERE VICE PRESIDENT OF  
12 OPERATIONS?

13 A. I BELIEVE THERE WERE THREE -- TWO, TWO MORE BESIDES  
14 MYSELF.

15 Q. OKAY. WHO WERE THE OTHER TWO?

16 A. JASON HEARD, WHO MANAGED THE NORTHERN REGION, AND GAINELL  
17 PAIGE JOHNSON, WHO WAS OVER IN ADMINISTRATION.

18 Q. SO THEY'RE ONLY -- IS THAT ALL OF THE VICE PRESIDENTS THAT  
19 ARE AT -- WERE AT PAIGE SECURITY AT THAT TIME?

20 A. AT THAT TIME THAT I COULD RECALL.

21 Q. AND IT'S YOU AND I THINK IT WAS JASON HEARD; CORRECT?

22 A. CORRECT.

23 Q. AND WHO IS ALSO A FAMILY MEMBER; CORRECT?

24 A. YES.

25 Q. AND GAINELL, WHO IS ALSO A FAMILY MEMBER; CORRECT?



HOLMES CROSS

1 A. YES.

2 Q. AND THIS WAS A FAMILY BUSINESS?

3 A. YES.

4 Q. AND YOU SHARED INFORMATION AS A FAMILY ABOUT WHAT WAS  
5 GOING ON WITH THE BUSINESS; CORRECT?

6 A. NOT NECESSARILY, NO.

7 Q. NOT NECESSARILY. YOUR FATHER DIDN'T SHARE INFORMATION  
8 ABOUT WHAT WAS GOING ON WITH THIS BUSINESS?

9 A. NO. I WAS OUT IN THE FIELD. I WAS RARELY IN THE OFFICE.

10 Q. OKAY. DID YOU EVER HAVE COMMUNICATIONS WITH YOUR FATHER  
11 ABOUT WHAT WAS GOING ON WITH THE BUSINESS?

12 A. WHAT WAS GOING ON WITH HIS PARTICULAR CLIENT WITHIN THE  
13 BUSINESS.

14 Q. HE TOLD YOU WHAT WAS GOING ON?

15 A. NO. I CALLED HIM REGARDING CERTAIN ISSUES OR WHEN WE  
16 WOULD HAVE TO BID OR ON A PROPOSAL WE WOULD DISCUSS THAT.

17 Q. MEANING THAT IF YOU BID ON A PROPOSAL, THAT MEANS YOU  
18 WOULD HAVE TO MAKE A FINANCIAL OFFER TO A POTENTIAL CLIENT, YOU  
19 WERE INVOLVED WITH THAT PROCESS?

20 A. NOT IN THE FINANCIAL PART OF IT, NO.

21 Q. WHAT PART WERE YOU INVOLVED WITH?

22 A. I WAS INVOLVED IN THE CONTRACT ADMINISTRATION OF INSURING  
23 THAT WE HAD ENOUGH OFFICERS TO COVER THAT EVENT OR TO HANDLE  
24 SCHEDULING, BUT I NEVER WAS INVOLVED IN THE FINANCIAL PROSPECTS  
25 OF PAIGE SECURITY, NO.

HOLMES CROSS

1 Q. AND YOU WERE NOT INVOLVED?

2 A. NO, SIR.

3 Q. DID YOUR FATHER TELL YOU ABOUT THE FINANCIAL ASPECTS OF  
4 PAIGE SECURITY?

5 A. VERY LITTLE, NO.

6 Q. AND DID YOU ASK?

7 A. NO, I DID NOT.

8 Q. NOW, YOU'RE AWARE OF THE FACT THAT YOUR FATHER FAILED TO  
9 FUND PENSION BENEFITS OF HIS EMPLOYEES OF PAIGE SECURITIES;  
10 CORRECT?

11 A. AFTER I WAS LAID OFF, NO, I WAS NOT AWARE OF THAT.

12 Q. BUT YOU'RE AWARE NOW THAT HE FAILED TO FULLY FUND THE  
13 PENSION BENEFITS OF HIS EMPLOYEES OF PAIGE SECURITY?

14 A. YES, I WAS AWARE OF THAT AFTER I HAD LEFT PAIGE SECURITY.

15 Q. ALL RIGHT. AND DID YOU PLAY A PART IN THE DECISION NOT TO  
16 FULLY FUND THE PENSION OF PAIGES SECURITY EMPLOYEES?

17 A. NO, SIR, I HAD NOTHING TO DO WITH THE FINANCES IN PAIGES  
18 SECURITY.

19 Q. AND DO YOU THINK IT'S IMPORTANT FOR AN EMPLOYER TO FUND  
20 THE PENSION OBLIGATIONS OF ITS EMPLOYEES?

21 MS. GARRIDO: OBJECTION, RELEVANCE.

22 THE COURT: SUSTAINED.

23 BY MR. FAZIOLI:

24 Q. IT'S TRUE THAT LEONARD PAIGE DID NOT FUND THE PENSION  
25 BENEFITS OF HIS EMPLOYEES; CORRECT?

1 MS. GARRIDO: OBJECTION, ASKED AND ANSWERED.

2 THE COURT: ARE YOU MOVING INTO A NEW AREA?

3 MR. FAZIOLI: I AM.

4 THE COURT: IS THIS FOUNDATION FOR YOUR NEXT.

5 MR. FAZIOLI: YES, IT IS FOUNDATION.

6 THE WITNESS: WHAT ARE YOU ASKING?

7 BY MR. FAZIOLI:

8 Q. LEONARD PAIGE DID NOT FULLY FUND THE PENSION BENEFITS OF  
9 HIS EMPLOYEES OF PAIGE SECURITY; CORRECT?

10 A. THAT COULD BE HEARSAY FROM ME.

11 Q. WELL, HE TOLD YOU THAT, CORRECT?

12 A. NO, HE DIDN'T TELL ME THAT.

13 Q. SO YOU DON'T KNOW WHETHER HE FULLY FUNDED THE PENSION  
14 BENEFITS OF HIS EMPLOYEES OR NOT?

15 A. NO, I DON'T KNOW.

16 Q. OKAY. BUT I THOUGHT YOU TESTIFIED THAT YOUR PENSION  
17 BENEFITS WEREN'T FULLY FUNDED; ISN'T THAT CORRECT?

18 A. THAT WAS ME. YOU ASKED ME ABOUT THE EMPLOYEES, OTHER  
19 EMPLOYEES.

20 Q. OKAY. SO YOU KNEW THAT YOUR PENSION BENEFITS WERE NOT  
21 FULLY FUNDED BUT YOU DIDN'T KNOW WHETHER OTHER --

22 A. I DIDN'T KNOW THAT UNTIL I LEFT THE COMPANY.

23 Q. SO WHAT WAS THE TIMEFRAME THAT YOU KNEW THAT OTHER  
24 EMPLOYEE'S PENSIONS WERE NOT BEING FULLY FUNDED?

25 A. PROBABLY WHEN I GOT INVOLVED MORE SO IN THE BANKRUPTCY

HOLMES CROSS

1 BETWEEN 2004 AND 2005.

2 Q. OKAY. AND DURING THAT PERIOD OF TIME --

3 A. AND WITH THE SITUATION WITH MY HOME.

4 Q. I'M SORRY?

5 A. WITH THE SITUATION WITH MY HOME.

6 Q. AND AT THAT TIME MR. PAIGE WAS MAKING MORTGAGE PAYMENTS ON  
7 THE PROPERTY AT 312 MOONRACKER; IS THAT CORRECT?

8 A. YES, HE WAS.

9 Q. HE WAS MAKING MORTGAGE PAYMENTS USING FUNDS THAT ACTUALLY  
10 BELONGED TO THE BANKRUPTCY ESTATE; IS THAT CORRECT?

11 A. I DON'T KNOW --

12 MS. GARRIDO: OBJECTION. IT CALLS FOR SPECULATION,  
13 ARGUMENTATIVE.

14 THE COURT: I THINK THE ANSWER WAS I DON'T KNOW.  
15 WAS THAT YOUR ANSWER?

16 THE WITNESS: YES.

17 THE COURT: I'LL ALLOW THAT TO REMAIN.

18 THE WITNESS: YES, YOUR HONOR.

19 BY MR. FAZIOLI:

20 Q. SO WHEN YOU BECAME AWARE OF THE FACT IN THE 2004  
21 TIMEFRAME --

22 A. UH-HUH.

23 Q. -- THAT YOUR FATHER WAS NOT FULLY FUNDING THE PENSION  
24 BENEFITS OF HIS EMPLOYEES?

25 MS. GARRIDO: YOUR HONOR, I'M GOING TO OBJECT. MAY

HOLMES CROSS

1 WE APPROACH?

2 THE COURT: YES.

3 (SIDE-BAR CONFERENCE ON THE RECORD.)

4 MS. GARRIDO: IT APPEARS TO ME THAT MR. FAZIOLI IS  
5 ATTEMPTING TO NOW CHARACTERIZE MS. HOLMES AS STEALING MONEY  
6 FROM THE PENSIONERS AT PAIGES SECURITY SERVICE BY KNOWINGLY  
7 TAKING MORTGAGE PAYMENTS THAT COULD HAVE BEEN PAID FOR THE  
8 PENSIONS.

9 THIS IS A RIDICULOUS LINE OF QUESTIONING. IT'S COMPLETELY  
10 IRRELEVANT TO THE CASE AT HAND. IT'S FAR AFIELD. IT'S  
11 PREJUDICIAL, AND I WOULD ASK FOR A RULING TO HAVE MR. FAZIOLI  
12 MOVE ON.

13 MR. FAZIOLI: ONCE SHE BECOMES AWARE ABOUT THE  
14 BANKRUPTCY AND BECOMES AWARE THAT THE PENSION OBLIGATIONS ARE  
15 NOT BEING PAID FOR, IT'S PROBATIVE OF THE FACT THAT SHE IS  
16 RECEIVING MORTGAGE PAYMENTS THAT COULD BE GOING TO PAY THE  
17 PENSION BENEFITS THAT ARE THE SUBJECT OF THE BANKRUPTCY ESTATE.

18 HER KNOWLEDGE OF THAT IS RELEVANT AS TO WHETHER HER  
19 SUBSEQUENT ACTIONS WERE DONE WITH AN INTENTION THAT SHE GET  
20 PAID OR HER FAMILY MEMBERS GET PAID AS OPPOSED TO THE PEOPLE  
21 AND THE CREDITORS WHO HER FATHER OWED MONEY, AND THAT'S PART OF  
22 THE PROOF OF SHOWING THAT SHE HAD AN INTENT TO DEFEAT THE  
23 PURPOSES OF THE BANKRUPTCY CODE. IT'S PROBATIVE OF HER  
24 KNOWLEDGE AND HER STATE OF MIND AND HER PRIORITIES BUT REALLY  
25 MRS. HOLMES'S PRIORITY IN TERMS OF WHO IS GOING TO GET PAID.

HOLMES CROSS

1 THE COURT: YOU'RE INCHING TOWARDS THE MICROPHONE,  
2 MS. LIE.

3 MS. LIE: I GOT THE IMPRESSION THAT MR. FAZIOLI WAS  
4 DONE. SO EITHER THE GOVERNMENT IS AT THIS POINT IMPROPERLY  
5 SEEKING A VARIANCE FROM THE INDICTMENT OR THEY'RE SEEKING TO  
6 ADMIT PROPENSITY EVIDENCE THAT HAS NO BEARING ON ANY OF THE  
7 ACTUAL ELEMENTS AND IS DISFAVORED UNDER 404(A) .

8 MR. FAZIOLI: IT'S ALSO RELEVANT AS TO THE EXTENT  
9 THAT THEY WANT TO MAKE LEONARD PAIGE AND HIS BUSINESS AND HIS  
10 RELATIONSHIP WITH HER AND HOW THIS IS A TIGHT-KNIT FAMILY  
11 BUSINESS, HIS BUSINESS PRACTICES, HIS PRIORITIES, WHAT HE DID  
12 IS RELEVANT AND THEN INFORMS ABOUT THIS TRANSFER AND WHETHER  
13 THAT TRANSFER WAS DONE WITH AN INTENTION TO EVADE THE  
14 OBLIGATIONS THAT HE HAD TO THE BANKRUPTCY ESTATE AND TO THE  
15 CREDITORS AND WHETHER MS. HOLMES KNEW ABOUT THAT.

16 MS. GARRIDO: LEONARD PAIGE'S INTENTIONS ARE NOT AT  
17 ISSUE IN THIS CASE. ONLY MS. HOLMES INTENTIONS ARE AT ISSUE.  
18 I THINK THIS IS BAD CHARACTER EVIDENCE AND IT'S PROPENSITY  
19 EVIDENCE AND I THINK IT'S MORE PREJUDICIAL THAN PROBATIVE, IN  
20 FACT, I DON'T THINK IT'S PROBATIVE OF ANYTHING.

21 MR. FAZIOLI: IT WAS THE DEFENSE THAT ASKED  
22 QUESTIONS ABOUT THE CREDITORS AND GOT INTO THE QUESTIONS ABOUT  
23 THE -- AND IN THEIR EXAMINATION OF MR. MAHER, THEY'RE THE SIDE  
24 THAT WANTS TO MAKE AND SPEAK AT LENGTH ABOUT LEONARD PAIGE, HIS  
25 BUSINESS, HIS INTERACTIONS.

HOLMES CROSS

1 IT'S PART OF THE INFORMATION THAT THE JURY CAN TAKE INTO  
2 ACCOUNT IN ASSESSING THESE ACTIONS AND THE MOTIVATIONS OF THE  
3 ACTORS AND THEY HAVE MADE LEONARD PAIGE'S MOTIVATIONS AN ISSUE.

4 MS. GARRIDO: THAT'S AN OUTRAGE COMING FROM THE  
5 GOVERNMENT WHO SO VIGOROUSLY OBJECTED ABOUT THE PAIGE BROCHURE  
6 COMING INTO EVIDENCE TO ILLUMINATE THE NATURE OF THE BUSINESS.  
7 I THINK IT'S COMPLETELY IMPROPER.

8 THE COURT: ALL RIGHT. THANK YOU. ALL RIGHT. SO  
9 I'LL ALLOW SOME PROBING OF THIS, BUT IF YOU'RE SEEKING TO  
10 INTRODUCE A WHOLE NEW THEORY, THAT'S NOT APPROPRIATE TO GET A  
11 WHOLE NEW THEORY OF LIABILITY IN. I DON'T THINK YOU CAN DO  
12 THAT AT THIS STAGE OF THE GAME.

13 TO THE EXTENT THAT THIS TOPIC WAS RAISED DURING  
14 CROSS-EXAMINATION ABOUT MR. PAIGE AND HIS BUSINESS, YOU CAN  
15 PROBE AS TO HER KNOWLEDGE ABOUT THAT.

16 THE THEORY ABOUT WHETHER OR NOT SHE WAS COMPLICIT IN  
17 KEEPING MONIES FROM THE PENSION FUNDS AND THAT, I THINK THAT  
18 STRETCHES IT A BIT.

19 MR. FAZIOLI: AND I WOULD SAY THAT TO THE EXTENT  
20 THAT WE'RE ARGUING THAT SHE KNOWINGLY RECEIVED AN INTEREST IN  
21 THE ESTATE -- AN INTEREST IN THE MOONRACKER PROPERTY, THAT SHE  
22 KNEW BELONGED TO THE BANKRUPTCY ESTATE, THAT IS NOT A NEW  
23 THEORY AND THIS IS EVIDENCE THAT IS RELEVANT TO THE  
24 DETERMINATION ABOUT HER STATE OF MIND.

25 THE COURT: WELL, YOU CAN CERTAINLY PROBE WHETHER OR

HOLMES CROSS

1 NOT SHE HAD THAT KNOWLEDGE ABOUT WHETHER OR NOT THE PROPERTY  
2 WAS PART OF THE ESTATE AND SHE MAY HAVE ANSWERED THAT QUESTION  
3 ONE TIME ALREADY, BUT YOU CAN CERTAINLY PROBE THAT.

4 YOU MIGHT BE PERMITTED TO ARGUE THAT SHE KNEW ABOUT THAT,  
5 AND, THEREFORE, IF THE EVIDENCE ESTABLISHES THAT SHE DID KNOW  
6 ABOUT THAT I SUPPOSE AN ARGUMENT CAN BE MADE THAT SHE KNEW  
7 ABOUT THAT AND SHE KNEW ABOUT THE BANKRUPTCY AND SHE WAS TAKING  
8 MONEY THAT OTHERWISE SHOULD HAVE GONE TO THE PENSIONERS.

9 ALTHOUGH I THINK IT'S A BIT -- IT IS A BIT OF A STRETCH  
10 FROM THE FACTS THAT WE HAVE HERE. SO I'LL ALLOW YOU TO PROBE A  
11 LITTLE, BUT I REALLY DON'T THINK THAT'S AS PERTINENT AS YOU  
12 MIGHT THINK IT IS FOR THESE ISSUES.

13 CANDIDLY JUST BASED ON HER RESPONSES, I DON'T THINK YOU'RE  
14 GOING TO GET THAT FAR WITH HER ON THAT THEORY, JUST BASED ON  
15 HER ANSWERS SO FAR BUT YOU MIGHT BE ABLE TO REHABILITATE HER  
16 AND SOMETHING MAY COME UP AND IF THERE'S REDIRECT THAT ALLOWS  
17 THAT.

18 MR. FAZIOLI: OKAY. IN TERMS OF SCHEDULING, I THINK  
19 WE'RE KIND OF --

20 THE COURT: I THINK WE'LL PROBABLY COME BACK AT 9:00  
21 TOMORROW MORNING.

22 AND DO YOU HAVE ANOTHER WITNESS AFTER THAT?

23 MS. LIE: WE DO AND THAT OTHER WITNESS -- WE HAVE A  
24 FEW OTHER WITNESSES, ONE IN PARTICULAR HAS A SCHEDULING  
25 DIFFICULTY THAT WE WERE HOPING TO RESOLVE BY HAVING HIM TESTIFY



HOLMES CROSS

1       TODAY, BUT WE UNDERSTAND WE COULDN'T DO THAT BECAUSE OF THE  
2       GOVERNMENT'S DESIRE TO INSPECT THE PHOTOGRAPHS.

3               BUT I WOULD LIKE TO BE ABLE TO CALL AMMAR SAHELI OUT OF  
4       ORDER IF AT ALL POSSIBLE, AND I WOULD ASK FOR LEAVE TO PUT HIM  
5       ON FIRST THING TOMORROW MORNING TO ADDRESS THE CHARACTER. I  
6       THINK HE'LL BE VERY, VERY SHORT. I DON'T THINK IT WILL  
7       PREJUDICE THE GOVERNMENT'S EXAMINATION OR THE REDIRECT  
8       EXAMINATION OF MS. HOLMES.

9               AND HE IS WORKING FOR THE OAKLAND SCHOOL DISTRICT, AND HE  
10      CANCELLED A NUMBER OF MEETINGS. AND HE HAS TO GET ON THE ROAD.

11              THE COURT: HE'S A CHARACTER WITNESS?

12              MS. LIE: HE'S A CHARACTER WITNESS. HE'S GOING TO  
13      TAKE A COUPLE OF MINUTES.

14              THE COURT: HE'S GOING TO SAY HE KNOWS MS. HOLMES,  
15      AND HE'S GOING TO SPEAK TO HER REPUTATION IN THE COMMUNITY.

16              MS. LIE: FOR HONESTY AND FAIR DEALINGS. AND HE'LL  
17      BE VERY SHORT AND BECAUSE OF THE REASONS THIS MORNING, I THINK  
18      WE WERE NOT ABLE TO GET TO HIM AND I'D LIKE TO GET HIM ON HIS  
19      WAY. SO I WOULD PUT THAT REQUEST OUT THERE.

20              MR. FAZIOLI: I NEED TO CONFER WITH COUNSEL.

21              THE COURT: WE COULD HAVE DONE THAT BEFORE WE PUT  
22      MS. HOLMES ON THIS AFTERNOON.

23              SO WE'RE GOING TO BREAK IN ABOUT TEN MINUTES. I'LL ASK  
24      THEM TO COME BACK AT 9:00 O'CLOCK, AND IT SOUNDS LIKE WE'LL GO  
25      ALL DAY TOMORROW.

1 MS. GARRIDO: AT THIS RATE, YES.

2 MR. FAZIOLI: THERE ARE SOME MATTERS WE SHOULD  
3 DISCUSS ABOUT THE CHARACTER WITNESSES AND WE CAN BREAK NOW AND  
4 TALK ABOUT THAT AND --

5 MS. GARRIDO: YOUR HONOR, I DON'T THINK WE NEED TO  
6 HAVE A DISCUSSION ABOUT THAT. IT'S A STRAIGHTFORWARD ISSUE.  
7 WE'RE GOING TO PUT ON EVIDENCE AS TO HONESTY AND INTEGRITY AND  
8 ANY RELEVANT FACTS.

9 IF THEY BELIEVE IT'S GOING BEYOND THE SCOPE OF WHAT IS  
10 PERMISSIBLE, THEY CAN OBJECT. I DON'T THINK IT'S APPROPRIATE  
11 TO GO THROUGH EACH WITNESS BEFOREHAND STEP BY STEP OF  
12 EVERYTHING THAT THEY MAY POSSIBLY SAY ON THE STAND AND GET A  
13 RULING ON IT BEFOREHAND.

14 IT'S A HUGE WASTE OF TIME.

15 THE COURT: WE'LL DO IT TOMORROW WHEN THE JURY IS  
16 NOT HERE, AND WE'LL GET TOGETHER AT QUARTER TILL AND GO OVER  
17 THAT.

18 OKAY. THANK YOU.

19 (END OF DISCUSSION AT SIDE-BAR.)

20 THE COURT: THANK YOU, COUNSEL. LADIES AND  
21 GENTLEMEN, MR. FAZIOLI IS GOING TO CONTINUE WITH HIS  
22 EXAMINATION. WE'LL PROBABLY BREAK IN ABOUT TEN MINUTES FOR OUR  
23 EVENING RECESS, AND I'LL ASK YOU TO COME BACK AT 9:00 O'CLOCK  
24 TOMORROW MORNING, 9 :00 O'CLOCK.

25 MR. FAZIOLI.

HOLMES CROSS

MR. FAZIOLI: YES.

Q. NOW, WHEN YOU PURCHASED THE MOONRACKER PROPERTY IN 1999 --

A. YES.

Q. -- YOU KNEW THAT YOU CO-OWNED THAT PROPERTY WITH YOUR FATHER; CORRECT?

A. YES.

Q. AND YOU KNEW THAT IN 1999?

A. UH-HUH.

Q. AND THEN YOUR FATHER DECLARED BANKRUPTCY IN 2002; CORRECT?

A. THAT'S WHAT I RECALL.

Q. AND DID YOU FIND OUT ABOUT THAT BANKRUPTCY IN 2002?

A. AFTER. AROUND MAY TIME.

Q. AROUND WHAT?

A. AROUND MAY OF 2002 WHEN I WAS LAID OFF.

Q. OKAY. YOU WERE LAID OFF FROM PAIGE SECURITY AND YOU BECAME AWARE IN MAY OF 2002 THAT YOUR FATHER HAD DECLARED BANKRUPTCY.

AND I THINK YOU MENTIONED THAT THERE WAS A MEETING, A FAMILY MEETING; IS THAT CORRECT?

A. YES.

Q. AND THAT YOUR PARENTS WERE AT THAT MEETING, CORRECT?

A. THEY CALLED THE MEETING.

Q. AND THEN THERE WAS A FAMILY MEMBER THAT WAS ALSO -- YOUR OTHER FAMILY MEMBERS WERE ALSO AT THE MEETING; CORRECT?

A. CORRECT.

HOLMES CROSS

1 Q. AND YOUR FATHER'S BANKRUPTCY ATTORNEY WAS ALSO AT THE  
2 MEETING; CORRECT?

3 A. NO, SIR.

4 Q. AND DO YOU KNOW -- DO YOU RECOGNIZE THE NAME BILL  
5 MCLAUGHLIN?

6 A. I HAVE HEARD HIS NAME, BUT HE WAS NOT AT THE FAMILY  
7 MEETING AT MY SISTER'S HOME.

8 Q. AND THAT MEETING THAT TOOK PLACE, THAT FAMILY MEETING, YOU  
9 TALKED ABOUT THE FACT, ABOUT THE FACT THAT YOUR PARENTS WERE  
10 DECLARING BANKRUPTCY; CORRECT?

11 A. OR HAD.

12 Q. OR HAD DECLARED BANKRUPTCY; CORRECT?

13 A. YES.

14 Q. AND I THINK YOU MENTIONED THAT YOU TALKED ABOUT THE IMPACT  
15 ON PAIGES SECURITY BUSINESS, TOO, CORRECT?

16 A. NO, WE DID NOT. I DON'T RECALL SAYING THAT.

17 Q. SO THE CONVERSATION WAS JUST ABOUT THE IMPACT ON YOUR  
18 PARENTS OF THE BANKRUPTCY?

19 A. JUST NOTIFYING US THAT THAT'S WHAT THEY HAD DONE.

20 Q. AND WHEN YOU -- I THINK YOU PREVIOUSLY TALKED ABOUT THE  
21 DOWN PAYMENTS ON THE MOONRACKER PROPERTY. DO YOU RECALL THAT?

22 A. YES.

23 Q. AND THESE ARE THE DOWN PAYMENTS THAT WERE MADE BACK IN,  
24 BACK IN 1999; CORRECT?

25 A. YES.

HOLMES CROSS

1 Q. WHEN YOU PURCHASED THE HOME?

2 A. YES.

3 Q. AND YOUR FATHER PAID THE MAJORITY OF THAT DOWN PAYMENT;  
4 CORRECT?

5 A. YES.

6 Q. AND THEN HE ALSO MADE THE MORTGAGE PAYMENTS ON THAT  
7 PROPERTY, THE MAJORITY OF THE MORTGAGE PAYMENTS ON THAT  
8 PROPERTY; CORRECT?

9 A. ALL BUT THE \$300.

10 Q. THE \$300. BUT YOU INDICATED THAT YOU DIDN'T MEMORIALIZE  
11 THE \$300; CORRECT?

12 A. WHAT DO YOU MEAN "MEMORIALIZE"?

13 Q. DID YOU WRITE IT DOWN?

14 A. NO, SIR.

15 Q. AND WHO PAID THE INSURANCE ON THE MOONRACKER PROPERTY?

16 A. I BELIEVE HE DID FROM WHAT I RECALL, HE JOINED IT WITH HIS  
17 OTHER PROPERTIES.

18 Q. AND, NOW, THERE CAME A POINT, I THINK YOU INDICATED, THAT  
19 YOU BECAME AWARE OF THE FACT THAT YOUR FATHER DECLARED  
20 BANKRUPTCY AND THE IMPACT THAT IT HAD ON THE PROPERTY; CORRECT?

21 A. YES.

22 Q. AND THAT YOU BECAME AWARE OF THE FACT THAT YOU NO LONGER  
23 CO-OWNED THE BANKRUPTCY, YOU -- YOU BECAME AWARE AT SOME POINT  
24 THAT YOU NO LONGER CO-OWNED THE PROPERTY WITH YOUR FATHER;  
25 CORRECT? YOU CO-OWNED IT WITH THE BANKRUPTCY ESTATE?

HOLMES CROSS

1 LET ME REPHRASE THAT.

2 A. YES, PLEASE DO.

3 Q. DID THERE BECOME A POINT THAT YOU BECAME AWARE THAT YOU  
4 CO-OWNED YOUR 312 MOONRACKER PROPERTY WITH THE BANKRUPTCY  
5 ESTATE FOR YOUR FATHER?

6 A. FROM MY RECOLLECTION I RECALL THAT LEONARD PAIGE,  
7 CARRIE PAIGE, AND THE BANKRUPTCY COURT SO I INCLUDED THEM ALL  
8 AS ONE UNIT. THAT'S THE ANSWER.

9 Q. AND WHEN DID YOU BECOME AWARE OF THAT, THE FACT OF HOW THE  
10 BANKRUPTCY AFFECTED YOUR HOUSE?

11 A. BETWEEN 2004 TO 2005.

12 Q. SO 2004 TO 2005 YOU KNEW THAT THE BANKRUPTCY HAD AFFECTED  
13 THE INTEREST IN YOUR HOUSE?

14 A. YES.

15 Q. AND YOU KNEW AT THAT POINT THAT YOU CO-OWNED THE HOUSE  
16 WITH THE BANKRUPTCY ESTATE?

17 A. I WASN'T SURE. EVERYTHING SAID LEONARD AND CARRIE'S  
18 ESTATE. SO I DON'T HAVE THAT LEGAL KNOWLEDGE.

19 Q. YOU DON'T HAVE IT NOW OR YOU DIDN'T HAVE IT THEN?

20 A. I DIDN'T HAVE IT THEN.

21 Q. SO YOUR TESTIMONY IS THAT YOU WERE NOT AWARE AT ANY POINT  
22 THAT YOU CO-OWNED THE PROPERTY, THE MOONRACKER PROPERTY WITH  
23 THE BANKRUPTCY ESTATE?

24 A. NO, I'M NOT SAYING AT ANY POINT. YOU WERE ASKING ABOUT  
25 2004, 2005 TIMEFRAME IF I RECALL.

Q. IN THAT 2004 -- AND I'M JUST TRYING TO UNDERSTAND. 2004  
AND 2005, AT THAT POINT, DID YOU KNOW AT THAT POINT THAT YOU  
CO-OWNED THE PROPERTY WITH THE BANKRUPTCY ESTATE?

A. I ASSUMED THE BANKRUPTCY ESTATE WAS LEONARD, CARRIE, AND  
THE BANKRUPTCY ESTATE ALL IN ONE.

Q. AND YOU ASSUMED --

A. SO I DIDN'T CALCULATE THAT IN ANY WAY.

Q. DID THERE COME A POINT WHERE YOU REALIZED THAT YOU WOULD  
NEED TO BUY OUT THE BANKRUPTCY ESTATE AS PART OF YOUR PROPERTY?

A. BUY OUT?

Q. DID THERE COME A POINT WHERE YOU REALIZED THAT THE  
BANKRUPTCY ESTATE OWNED A PIECE OF YOUR HOUSE?

A. YES.

Q. AND THAT WAS IN THIS 2004, 2005 TIMEFRAME?

A. 2005 OR WHENEVER I RECEIVED THE LETTER FROM THE TRUSTEE.

Q. AND THE LETTER FROM MR. RICHARDSON?

A. YES.

Q. AND WHENEVER YOU RECEIVED THAT LETTER, AT THAT POINT YOU  
UNDERSTOOD THAT THE TRUSTEE -- THAT THE BANKRUPTCY ESTATE OWNED  
A PORTION OF THE HOUSE -- OF YOUR HOUSE?

A. NOT NECESSARILY. I STILL CONSIDERED IT LEONARD PAIGE AND  
THE ESTATE.

Q. AND YOU UNDERSTOOD AT THAT POINT THAT LEONARD PAIGE HAD  
DECLARED BANKRUPTCY; CORRECT? AND WE'RE TALKING ABOUT WHEN YOU  
RECEIVED THE LETTER FROM MR. RICHARDSON?

HOLMES CROSS

1 A. YES.

2 Q. AND YOU UNDERSTOOD THAT THERE WERE CREDITORS FOR HIS  
3 BANKRUPTCY; CORRECT?

4 A. I CAN'T -- YES, I UNDERSTOOD THAT'S WHAT THE BANKRUPTCY  
5 WOULD BE ABOUT, YES.

6 Q. AND ABOUT THE FACT THAT YOUR FATHER OWED MONEY?

7 A. OWED MONEY.

8 Q. HE OWED MONEY TO A LOT OF PEOPLE; CORRECT?

9 A. RIGHT.

10 Q. AND THAT BACK IN 2002, HE HAD DECLARED BANKRUPTCY,  
11 CORRECT? YOU UNDERSTOOD THAT?

12 A. YES.

13 Q. AND YOU UNDERSTOOD THAT WHAT THE BANKRUPTCY TRUSTEE WAS  
14 GOING TO DO WAS GOING TO BE TO GET MONEY TO PAY THE CREDITORS  
15 OF YOUR FATHER?

16 A. NO, I DIDN'T UNDERSTAND.

17 Q. YOU DIDN'T UNDERSTAND?

18 A. NO, I DID NOT.

19 Q. NOW, WHEN YOU -- WHEN MR. RICHARDSON REACHED OUT TO YOU  
20 AND TALKED ABOUT THE LETTER ABOUT THE INTEREST IN THE PROPERTY,  
21 YOUR FATHER WAS STILL MAKING PAYMENTS ON THE HOUSE; CORRECT?

22 A. CORRECT.

23 Q. AND HE WAS STILL MAKING MORTGAGE PAYMENTS, FOR EXAMPLE,  
24 CORRECT?

25 A. CORRECT.



HOLMES CROSS

1 Q. AND THAT WASN'T -- YOU DIDN'T HAVE A PROBLEM WITH THAT AT  
2 THE TIME?

3 A. NO.

4 Q. DID YOU HAVE ANY CONCERNS AT THE TIME FOR THE CREDITORS  
5 WHOM YOUR FATHER OWED MONEY?

6 A. I WASN'T INVOLVED IN THAT. I DIDN'T EVEN REALLY KNOW WHO  
7 HE OWED MONEY TO.

8 Q. OKAY. BUT YOU KNEW THAT HE OWED PEOPLE MONEY AT THE TIME;  
9 CORRECT?

10 A. CORRECT.

11 Q. AND YOU BECAME AWARE OF THE FACT THAT THE BANKRUPTCY  
12 ESTATE OWNED A PORTION OF YOUR HOUSE; CORRECT?

13 MS. GARRIDO: I'M GOING TO OBJECT AS TO ASKED AND  
14 ANSWERED MULTIPLE TIMES.

15 THE WITNESS: LEONARD PAIGE --

16 MR. FAZIOLI: AT ANY TIME?

17 THE COURT: YOU'RE GOING TO WITHDRAW AND ASK A NEW  
18 QUESTION?

19 MR. FAZIOLI: I'LL ASK A NEW QUESTION.

20 Q. DID YOU HAVE ANY CONCERNS AT ALL IN 2005 FOR THE PEOPLE  
21 WHO YOUR FATHER OWED MONEY AS PART OF THE BANKRUPTCY?

22 MS. GARRIDO: OBJECTION AS TO ASKED AND ANSWERED AND  
23 ALSO UNDER 403 GROUNDS. RELEVANCE.

24 THE COURT: OVERRULED.

25 DO YOU UNDERSTAND THE QUESTION?

HOLMES CROSS

1 THE WITNESS: SOMEWHAT. NOT TOTALLY, NO.

2 BY MR. FAZIOLI:

3 Q. IN THIS 2005 TIMEFRAME, WHAT CONCERN, IF ANY, DID YOU HAVE  
4 FOR THE PEOPLE WHO WERE OWED MONEY BY YOUR FATHER AS A RESULT  
5 OF HIS BANKRUPTCY?

6 A. I HAD CONCERN FOR MY PARENTS LEONARD AND CARRIE WHO WERE  
7 IN THEIR LATE 70'S, GOING INTO 80'S. THAT'S WHERE MY MAJOR  
8 FOCUS WAS.

9 Q. AND DID YOU HAVE ANY CONCERN FOR THE PEOPLE WHOM YOUR  
10 PARENTS OWED MONEY AS PART OF THE BANKRUPTCY?

11 A. YES, I WAS -- YES, I HAVE CONCERN FOR PEOPLE -- COMPASSION  
12 FOR ANYBODY OUT OF WORK. I WAS OUT OF WORK, YES. I HAD GREAT  
13 CONCERN.

14 Q. AND DID YOU WANT THOSE PEOPLE TO BE PAID BACK?

15 A. I DIDN'T RATIONALIZE THAT.

16 MS. GARRIDO: OBJECT AS TO THE RELEVANCE, YOUR  
17 HONOR.

18 THE WITNESS: THAT --

19 THE COURT: EXCUSE ME. WHEN THERE'S AN OBJECTION,  
20 YOU NEED TO WAIT --

21 THE WITNESS: YES, SIR.

22 THE COURT: -- UNTIL THE COURT RULES.

23 THE WITNESS: YES, SIR.

24 THE COURT: I'LL SUSTAIN THE OBJECTION, AND YOU CAN  
25 ASK ANOTHER QUESTION.

1 DO YOU WANT TO TAKE A RECESS?

2 MR. FAZIOLI: THAT'S FINE.

3 THE COURT: I'LL REMIND YOU OF THE ADMONITION STILL  
4 IN PLACE AND 9:00 O'CLOCK. THANK YOU.

5 (COURT CONCLUDED.)

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CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT REPORTER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

A handwritten signature in black ink that reads "Irene Rodriguez". The signature is written in a cursive, flowing style with a large, decorative flourish at the end of the last name.

IRENE RODRIGUEZ, CSR, CRR  
CERTIFICATE NUMBER 8076

DATED: OCTOBER 29, 2013